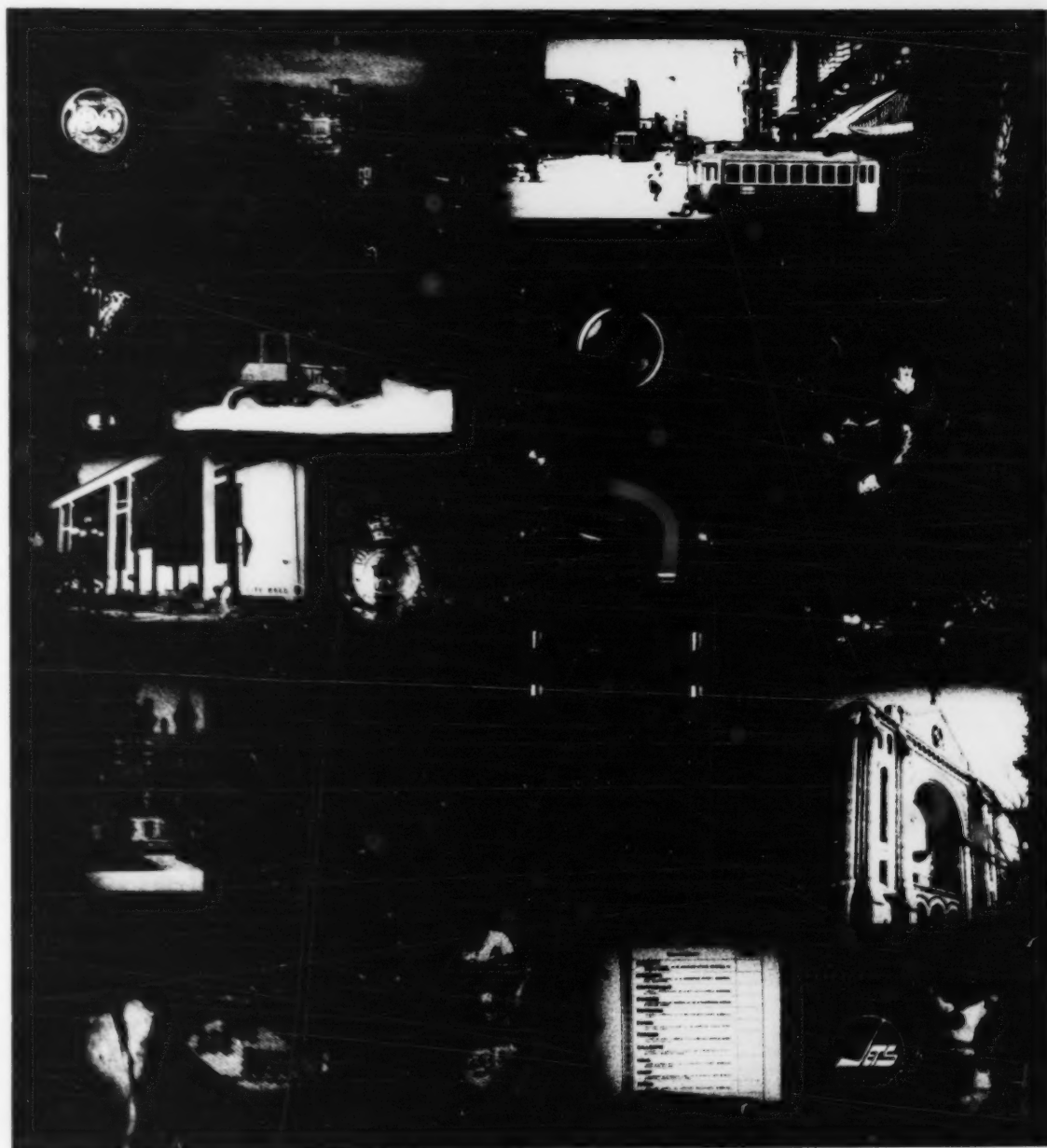


CITY OF WINNIPEG ACT REVIEW COMMITTEE FINAL REPORT 1986



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Our city in review

Lawrie Cherniack, Chairperson.

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Manitoba



City of Winnipeg Act

Review Committee

Lawrie Cherniack
Chairperson

Alan F. J. Artibise
Donald Epstein
Donald I. MacDonald
Paul G. Thomas

Room 111
1200 Portage Avenue
Winnipeg, Manitoba
R3G 0T5

Telephone: 945-2492

November 30, 1985

The Honourable Pearl McGonigal
Lieutenant Governor of Manitoba
Government House
Winnipeg

Your Honour:

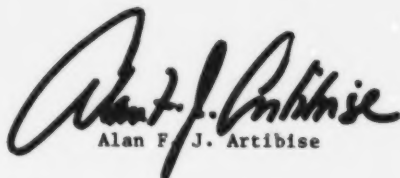
The City of Winnipeg Act Review Committee was appointed pursuant to Section 660 of The City of Winnipeg Act, being Chapter 105 of the Statutes of Manitoba 1971 as amended, and in accordance with the terms of Orders-in-Council Nos. 448/84, 737/84, and 1078/85, dated 11 April 1984, 20 June 1984, and 18 September 1985 respectively.

Your Committee has conducted its review of the operation and effectiveness of The City of Winnipeg Act according to your charge and is now pleased to present its findings and recommendations.

Respectfully submitted,



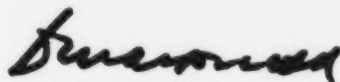
Lawrie Cherniack, Chairperson



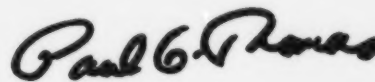
Alan F. J. Artibise



Donald Epstein



D.I. MacDonald



Paul G. Thomas



Left to right: Gordon Mackie (Secretary), Alan Artibise, Lawrie Cherniack (Chairman), Donald Epstein, Paul Thomas, Donald MacDonald.

Lawrie Cherniack is a partner in the law firm Cherniack Allen Greenaway. He was a City Councillor during the first three years of Unicity government in Winnipeg.

Alan Artibise is an historian and Director of the Institute of Urban Studies at the University of Winnipeg.

Donald Epstein, President of Epstein Associates, Inc., is a planning, management, and socio-economic consultant, active in a variety of business and community affairs.

Donald I. MacDonald is retired from the position of Chief Commissioner of the City of Winnipeg. Previously he was Executive Director of the Metropolitan Corporation of Greater Winnipeg.

Paul Thomas is an Associate Professor in Political Studies at the University of Manitoba. He is the Chairperson of the Joint Masters in Public Administration Program at the Universities of Manitoba and Winnipeg.

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Acknowledgements

Many individuals and groups contribute to a work such as this. We have been influenced greatly by what we have heard and we freely and gratefully acknowledge that much of the merit in what follows is due to the thoughtful advice we received from others.

The late Honourable Mary Beth Dolin, whose untimely passing occurred in April 1985, supported and encouraged our hope to consult widely with the public in reviewing **The City of Winnipeg Act**. This approach exemplified her own secure and open approach to public office and helped us confirm the value of the contributions to be made by knowledgeable citizens.

The Department of Urban Affairs had anticipated some of our needs and had made arrangements for several student projects before we began our work. Reports from Valdene Buckley, Lysa Joyal, and Brent Rosnoski were useful for the information they contained and we thank the Department for its foresight and the authors for their reports.

We received other reports and studies on a variety of subjects from S. Clifford Johanson, Lysa Joyal, Walter Kubiski, Christopher Leo, Earl Levin, Kathy Mancer, David Parker and David Sanders, Special Advisor to the Minister of Urban Affairs. Each brought a particular and informed perspective to bear on various aspects of our work and produced reports of value and significance. Their knowledge and creativity is reflected in many parts of what follows.

Our own staff—Gordon Mackie our Committee Secretary, and Janice Wanke and Judy Pichurski our Administrative Secretaries—have provided invaluable assistance, sometimes at odd hours, and have contributed immeasurably.

The Committee wishes to acknowledge its special debt to Mr. Mackie. The important but mundane administrative tasks that were part of his job were performed with such dispatch that we were able to take them for granted. We were happy to be able to use his services in other ways that truly used his remarkable talents. He was our main link to the public, a frequent and valuable participant in our discussions, a fount of important information, and,

along with Mr. Epstein, a major coordinator and editor of the final version of this Report. He performed his tasks with overwhelming dedication of time and energies. He approached his tasks with intelligence, humour, and great care. The Committee's appreciation for his contribution to our work cannot be fully described and our debt to him can never be fully paid.

Donald Epstein has made a major contribution to this Report which the other Committee members wish to acknowledge. He accepted the demanding assignment of consulting with elected representatives on the issues embedded in the relationship between area municipalities and the City—an assignment requiring patience and diplomacy. His creative and intelligent approach to the development of initial proposals to be considered by the Committee was of immense value. He also took on the major role of coordinating, editing and writing the final version of most of this Report. Without his disciplined efforts, his patience, his broad knowledge, and his creative approach to each phase of our work, we could not have produced the Report in its present form.

The dynamics of leadership of a Committee consisting of five individuals with often strong opinions presents a real challenge for the Chairperson. The four members who worked with Lawrie Cherniack wish to thank him for the mixture of intelligence, patience, warmth, and humour with which he led our meetings. He was instrumental in forging consensus among us. We all agree that the informal and sensitive way that he conducted our public hearings and private meetings encouraged a positive response to the review process.

Finally we recognize and acknowledge the incalculable impact of all the interested and informed private citizens and public servants who presented us with their views in public and in private. The notion of democracy is an evolutionary and expansionary one. We have no doubt that the thought and energy displayed by those who presented their views to us are symptoms of a vital and healthy civic democracy in Winnipeg.

SECTION 1: COMMITTEE MANDATE

1.1 Terms of Reference

The City of Winnipeg Act Review Committee was appointed by Order-In-Council No. 448/84 dated 11 April 1984 as amended by Order-In-Council No. 737/84 dated 20 June 1984.

The Orders-In-Council read in part:

WHEREAS Section 660 of The City of Winnipeg Act, being Chapter 105 of the Statutes of Manitoba 1971 provides as follows.

660 The Lieutenant Governor in Council shall, as often as he deems it necessary,

- (a) appoint a committee of such number of persons as he deems to be suitable; or
- (b) appoint under Part V of the Manitoba Evidence Act, such commissioners as he deems suitable;

to review the operation of this Act and the activities of the City thereunder, and to consider such other relevant matters as the Lieutenant Governor in Council may prescribe; and the committee or the commissioners shall report to the Lieutenant Governor in Council with respect to the matters referred to them and shall set forth in the report their findings and recommendations.

WHEREAS it is deemed advisable and in the public interest to appoint a committee to review the operations of The City of Winnipeg Act and the activities of The City of Winnipeg thereunder.

THEREFORE, the Minister recommends

1. That pursuant to the provisions of Section 660

of The City of Winnipeg Act, a Committee be appointed to review

- (a) the operation of The City of Winnipeg Act, being Chapter 105 of the Statutes of Manitoba as amended, with the exception of Part VII—Assessment;
- (b) the activities of the City of Winnipeg under the provisions of the said Act;
- (c) the effectiveness of the provisions of The City of Winnipeg Act with respect to:
 - i) the distribution of responsibilities and powers between the City of Winnipeg and the Province of Manitoba;
 - ii) the distribution of responsibilities and powers for reconciling both local and City-wide interests within the City of Winnipeg;
 - iii) the relationships between the City, municipalities in the additional zone, and municipalities and planning districts adjacent to the City and the additional zone;
 - iv) city planning, particularly in Part XX of the Act; and
 - v) meaningful citizen participation in City decision-making processes.

These orders were further amended by Order-In-Council No. 1078/85 dated 18 September 1985 which provided that The Review Committee's term would be extended for three months to allow time to complete this report.

SECTION 2: PROCESS

The Review Committee believes that it will be useful to the critical reader if we outline the process we have engaged in during our tenure. We think it may help the reader to evaluate this report if we sketch in the principal features of our process over the last year and a half.

We began our work in July of 1984 when the then Minister of Urban Affairs, the late Honourable Mary Beth Dolin, brought us together for the first time. Each member of the Committee brought a distinct perspective to the review of the Act and the activities of the City. We decided at the outset that the major object of the review was to recommend necessary changes to the Act. We agreed to open the review process to the views and aspirations of our fellow Winnipeggers. We undertook to ensure a wide distribution of our report. We also resolved that, after the report was completed, we would press for implementation of our eventual recommendations.

The Minister endorsed this activist conception of our role and supported and encouraged our proposal to promote a wide-ranging public debate on the matters described in our mandate.

First Steps

In August we selected, and the Civil Service Commission formally appointed, our staff. We also negotiated a budget for the fiscal years 1984-85 and 1985-86 with the Department of Urban Affairs which the Government agreed to, within the conventional limits of departmental authority.

Having determined that we would seek the participation of the public in our process, we published, in September 1984, a pamphlet to announce our terms of reference, to invite participation, and to solicit the help of anyone interested in defining the specific issues we should address.

The pamphlet—**Our City in Review** (published as well in French as **Notre Ville à l'Étude**)—was released at a well-attended press conference. In most instances, the attention of the news-gathering organizations of all the media has been welcome and useful throughout our tenure. We believe that our work has benefitted from the scrutiny of the media and that they continually added to and reinforced public understanding of our work—which was, of course, our intention.

The publication of the pamphlet, about 3000 of which were distributed, brought our work to the attention of the general public for the first time and we began to receive comments and opinions. Future Review Committees may find that it is useful to accommodate, as needed, those who would rather telephone than write and may also find that only some of those who telephone can be successfully encouraged to make a more permanent contribution by putting their thoughts on paper.

Through the fall of 1984 we met privately with individuals whom we hoped would be able to provide some special insights into the operation of the Act and the activities of the City. These included lawyers, planners, current and retired politicians at all levels, businesspersons, current and retired civic and provincial employees, and academics.

These meetings were held in private because we hoped that the exchange of views would be less guarded than if held in public and because we had been led to believe that civil servants in particular would not care to see their expressions of views on the public record. We asked City Council to grant, and we received, permission for municipal civil servants to meet with us, and provincial civil servants were likewise allowed to contribute to our understanding

without restriction. We met more than 150 people in private.

We commissioned a poll on attitudes of Winnipeg residents which was useful to us. We accepted those results that indicated decisive public opinion. Most of the results, however, were inconclusive.

We were not successful in one other venture in gathering opinion and guidance in the early stages of our process. We sent a lengthy and detailed questionnaire to all the serving and retired members of City Council, a total of 89. Only 16 responses were received, a disappointing total. Many of the responses we did receive were fascinating, and reflected the care and respect with which our respondents approached issues concerning our City. Still, we were left with too few data to discern patterns of response and to generalize about the experience of our elected civic leaders.

We chose not to conduct an elaborate or expensive programme of original research. We commissioned a series of papers, on provincial-municipal relations, comparative urban political organization, resident participation, city planning and a number of shorter reports on such questions as grants-in-lieu of taxes, the municipal franchise, and various land-use planning approval processes. These reports are listed in Appendix III, and are available at the Department of Urban Affairs.

The Issues Paper

We had intended from the outset to publish, after our initial identification of the issues, a document that would provide a focus for the public hearings and the submissions of members of the public. We would not attempt to offer tentative conclusions or provisional recommendations about the emerging issues. Rather, the Review Committee would identify issues and discuss them in terms of the problems they presented and some possible options for their resolution.

A 32 page **Issues Paper** (published as well in French as **Exposé de la situation**) was printed and over 5000 copies were distributed. The response was immediate and gratifying. We did not receive a single negative comment about this publication, although two minor factual errors were gently brought to our attention.

The **Issues Paper/Exposé de la situation** served the purpose that was intended. In the course of our public hearings, our identification of the issues was referred to many times—often by number and page. Many of those who appeared before us took the time to discuss in detail a number of the issues raised. There was a particularly good response to the section titled "The Qualities of Good Government", in which we tried to express in a few words the values and principles that we would bring into play in addressing the issues.

The Additional Zone

A more happy prospect presented itself when we realized that one of our specific terms of reference offered an opportunity to secure some measure of agreement on our eventual recommendations by engaging in a different, less public, process. In the words of the Orders-in-Council we were charged with reviewing: "...the effectiveness of the provisions of The City of Winnipeg Act with respect to: ...iii) the relationships between the City, municipalities in the additional zone, and municipalities and planning districts adjacent to the city and the additional zone ..."

It was clear that if the provisions of the Act which address land-use planning around the City were not spent, they were certainly tired, and we resolved to explore the possibility that a consensus on several questions could be reached. We reasoned that if this were possible, we would be making good progress toward future implementation. We feel that we have achieved some success in this regard, although we must admit that a tentative consensus and good intentions are only encouraging signs and not sufficient conditions for acceptable legislation. (The steps we followed with regard to Additional Zone matters are described in more detail in Introduction and Summary, Section 8.)

Public Hearings

We planned to conduct public hearings throughout the City during the first three months of 1985. We arranged to use the Community Committee chambers in each community, generally during evening hours, and we also arranged hearings at City Hall for both afternoons and evenings. We went outside the City proper, to the Council chambers of West St. Paul and East St. Paul, to conduct hearings in the Additional Zone. In most cases we arranged child care for the children of people who wished to be heard.

Hearings in the St. Boniface/St. Vital Community Committee area presented special problems and opportunities. We noted that simultaneous translation is not a regular feature of hearings and Community Committee meetings in that area and so we had to innovate, in order to accommodate Francophones who wished to address the Review Committee.

A high point in the public hearing phase of our process occurred when we were invited to receive the briefs of core area residents and social service agencies at Rossbrook House, a native community centre in Winnipeg's core area. Seventeen briefs were heard that night, so many that we had to return on a subsequent evening to discuss fully with the presenters the issues that they had raised. A number of briefs that touched on questions far beyond our mandate remain a particularly bright memory of those evenings.

A review of the Act could have been a sterile process, remote from the most deeply felt concerns of residents, if carried out in the comfortable atmosphere of a government office building. We tried to provide an informal setting and to promote a collaborative, rather than adversarial, procedure. We invited people presenting briefs to sit with us, at the places used by Councillors at Community Committee meetings. We opened up discussion at every hearing, and conducted a round table discussion among all those present after the briefs had been heard. We allowed people to address us in either official language.

Only an easy informality could give us access to expressions of people's feelings about the effectiveness of the Act and the activities of the City.

Responding to the requests of many people who still wanted to be heard, we extended our hearings through April 1985. In the end, the Committee conducted 29 hearings and heard 216 public submissions. An additional 80 written submissions were received.

Private Meetings

Private meetings continued into the autumn of 1985. Having spent much of the summer meeting as a Committee, drafting recommendations, and debating between ourselves the detailed consequences of our recommendations, we felt that it would be useful to test, in a general way, our conclusions and preliminary proposals with the elected officials who would be most responsible for and affected by the implementation of our recommendations.

Accordingly we arranged confidential meetings with the Urban Affairs Committee of Cabinet, with a group of Opposition members convened by the Leader of the Opposition, and with City Council members. In general, it is a measure of the support given to our process by each of these groups that no significant public discussion of our provisional conclusions ensued.

This report being now complete, the work of the Review Committee is officially at an end. As individuals, we look forward to an active period of describing and explaining our work, and pressing for implementation of our recommendations.

SECTION 3: CONTEXT

Introduction

Our concern in this section is to set forth, in a brief and general fashion, the historical, political, and legal context of this review of **The City of Winnipeg Act**. The Review Committee realized that it could not redesign the Act in isolation from the city's past experience. The present government structure embodies ideas about the nature and role of urban government developed over many decades.

Winnipeg has its own political traditions which are different from those of other cities and other levels of government. Caution has been exercised in importing ideas and practices from other jurisdictions. Structures and formal rules are a part of Winnipeg's political tradition, but so also are informal norms, values and habits which help to shape the behaviour of public officials and residents of the city. While changes to the structure and process of government will generally not lead to changes in attitudes, they can alter familiar patterns of behaviour.

City government is dynamic and evolutionary in nature. Its structures and activities have been shaped by geographic, economic, demographic and social circumstances, which have changed over time and will continue to change. In formulating its recommendations, the Review Committee has sought to give appropriate consideration to the many dynamic dimensions of our city.

Since the mid 1970s the growth of Winnipeg has not been dramatic, but the city has continued to account for a large part of the increased economic activity in Manitoba. Nearly 60 per cent of Manitoba's population resides in Winnipeg, and the city provides approximately two-thirds of all the jobs in the province. The economic significance of Winnipeg has political consequences. It means that the Provincial Government cannot ignore Winnipeg and cannot be indifferent to what goes on within its boundaries.

While Winnipeg developed economically as a single unit, political integration did not take place until very recently. With expansion of the population, municipalities grew up around Winnipeg. By 1924, there were 14 area municipalities. There were problems in providing services across municipal boundaries. There was inter-municipal competition for industrial development and tax revenues.

In an effort to cope with the jurisdictional problems that arose, a number of special-purpose boards and commissions which transcended municipal jurisdictions were created: the Greater Winnipeg Water District (1913), the Greater Winnipeg Sanitary District (1935), the St. James-Winnipeg Airport Commission (1940), the Metropolitan Planning Commission (1949), the Greater Winnipeg Transit Commission (1953) and several others. These special purpose bodies had some significant achievements, but they were not an adequate response to the political fragmentation of the city into numerous autonomous governments.

In the late 1940s Canada as a whole began to experience rapid industrialization and urbanization and Winnipeg participated in this process. The city grew rapidly both in population and in the extent of its developed area. In 1946 the population of the City was 230,000 and that of the combined suburbs only 70,000. In a little over ten years the suburbs grew until their population approximately equalled that of the central city.

The suburban municipalities were the only places where land assembly on a large scale could be undertaken. The municipalities welcomed these new developments, in some cases virtually giving away municipally-owned land in order to attract new building. But there was no effective

mechanism for planning, financing, and implementing the improvements in regional services which were essential to serve these developments.

In 1955 when the Provincial Government established the Greater Winnipeg Investigating Committee to study the matter, there were seven cities, two towns and 14 rural municipalities within the area. In 1959, the Investigating Committee's report concluded that long-term planning was impossible and that an area-wide government was necessary. It recommended an amalgamation of major urban services. The Provincial Government eventually adopted a plan quite different from the Committee's proposal, but involving some of the centralization of functions that had been called for.

3.1 From Metropolitan Government to the Unicity Act of 1971

In 1961 the Provincial Government created a second tier of government over the City of Winnipeg and the suburban municipalities—the Metropolitan Corporation of Greater Winnipeg.

The Metropolitan Corporation (Metro) played an important role in co-ordinating the regional activities within what was then called Greater Winnipeg. Metro was given authority over regional planning and zoning. It was charged with responsibility for water supply and sewage disposal, property assessment, transit, regional streets and regional parks. It obtained its revenues from three main sources: levies on municipalities based on their share of assessment relative to total assessment; a share of industrial taxes collected by local municipalities; and direct fees.

Also at this time an Additional Zone was created, which extended beyond the Metro boundary to an average distance of about five miles. The Additional Zone included all or part of four rural municipalities. In matters of planning, zoning, building controls and property assessment for tax purposes, the Metropolitan Government's authority was extended to include the Additional Zone. This arrangement was intended to prevent uncontrolled urban sprawl.

During the decade of its existence, from 1961 to 1971, Metro accomplished a great deal in terms of the integration of services, but it also ran into serious political difficulties in its dealings with the area municipalities. The area municipalities resented the assumption of some of their former functions by the Metropolitan Corporation. The political opposition was led by the Mayor of Winnipeg who waged an almost constant battle with the Corporation. Metro was blamed for causing large mill rate increases. It was attacked as being remote from the citizens. The Metropolitan Council consisted of ten Councillors elected from wedge-shaped districts that stretched from suburban areas to the inner city. Although the districts were designed to promote area-wide thinking, critics alleged that these districts were artificial and did not reflect local identities.

Despite its political problems the Metropolitan Corporation was judged an administrative success by two provincially-appointed inquiries conducted during the 1960s. In addition to its specific achievements, the greatest effect of Metro was to change the attitudes towards amalgamation within Winnipeg. By the late 1960s there were few observers who advocated a return to the pre-1960 era. The issue was whether to move forward to complete unification.

The City of Winnipeg Act—the Creation of Unicity

In December, 1970, the Provincial Government released a White Paper entitled **Proposals for Urban Reorganization in the Greater Winnipeg Area**, for the purpose of public discussion. The paper proposed a combination of unification of the municipalities and decentralization within the new unified political structure. There was heated and lengthy debate on the Government's plans, both in the community and later in the Legislative Assembly when the government eventually produced Bill 36. In July, 1971, the bill was passed and **The City of Winnipeg Act** came into force on January 1, 1972.

The City of Winnipeg Act created one unified city. The twelve municipalities and Metro ceased to exist. One central council was created with 51 members—50 Councillors elected from small wards and a Mayor elected at large. The Councillors' wards were arranged in groups to provide the basis for 13 Community Committees, which largely corresponded to the boundaries of the former municipalities. Over a period of several years, there was a unification of major city services. There was the establishment of a uniform tax rate throughout the Greater Winnipeg area. The new city government was given planning powers in the city and land-use control over the Additional Zone.

It appears that the Provincial Government originally had the cabinet-parliamentary model in mind when it conceived Unicity. The original plan called for the Mayor to be elected from within Council, but in the course of the debate on the plan the election of the Mayor at-large was substituted. With such a large Council, some concentration of power was seen to be necessary in order to ensure that strong and accountable political leadership would emerge. An Executive Policy Committee was created. Its members were elected by Council. In the final result, therefore, the bill did not produce the equivalent of cabinet-parliamentary government at the local level. Indeed, many analysts, and the Review Committee as well, are divided on whether the features and practices of cabinet-parliamentary government could have been incorporated successfully into city government given its past history and traditions.

The centralization involved with unification and the creation of an Executive Policy Committee was to be balanced by the creation of Community Committees and Residents' Advisory Groups. Community Committees were composed of the Councillors from the wards within their boundaries. The Community Committees were to have administrative responsibility for local services like community centres, parks, and libraries, but the 1970 White Paper emphasized that "their most important function by far will be to provide ready access by the people to the local government system."^{*} To facilitate citizen involvement, the Act provided for annual community conferences where residents would be elected to serve on Residents' Advisory Groups.

The Unicity form of government has achieved a virtually complete integration of urban services and a unified property tax system and mill rate for the entire Greater Winnipeg area.

One result of the Unicity experiment has been to favour suburban expansion. As a result of the incorporation of the former municipalities and the population shift to the suburbs, City Council has been dominated by suburban Councillors. Council policies in favour of additional suburban expansion, intermingled with support for business activity in the central city, reflect the political dominance of the suburbs. The Unicity structure facilitated suburban growth in a second way. It gave the city the

large, unified tax base necessary to finance the capital investment essential for suburban land development—a capability which many of the former suburban municipalities lacked.

The Unicity Council has made ongoing development decisions which have individually, but more important, collectively, had a major impact on the character of the City, on the kind of urban community that this city is becoming. We heard frequently during our public meetings that not all residents were happy with the results. There are indications from Plan Winnipeg and from the official pronouncements of the tri-level Core Area Initiative Policy Committee that the City, the Province and the Federal Government are now becoming concerned about the consequences of continued horizontal development in the face of an urban population no longer exhibiting the exuberant growth of the 1960s and 70s.

It can be argued that a large measure of suburban expansion was inevitable, particularly at a time when population increase, new family formations and real estate inflation made the investment in a suburban home a highly desirable objective for the City's upwardly and outwardly mobile members of society. Industry, shopping centres and the associated jobs followed. The resulting polarization of population, with the more fortunate members of society concentrated in the new suburbs and with the poor and disadvantaged concentrated in the older and deteriorating areas of the City is a social phenomenon which represents a new challenge to governments. It is, in part at least, a consequence of their land development policies.

In the long run the social costs of this development pattern, which results in *de facto* segregation of the population, may prove to be very high. And there are other costs which are very significant. The tax supported costs of operating the City are continually rising well beyond the rate of inflation. Replacement of the City's older infrastructure has been allowed to lag behind while its service network has been expanded to encompass the newer areas. The costs of operating the City's major utility services, particularly public transit, have increased dramatically.

3.2 The Taraska Committee of Review and Amendments to the Act since 1976

When **The City of Winnipeg Act** of 1971 was proclaimed the Provincial Government acknowledged that the new structure was carefully designed with certain concessions to improve political acceptance and to ease the transition for the many municipal governments and their administrations. The Act included a provision that called for a periodic review of the operation of the Act by a provincially-appointed committee and in 1975 such a committee was appointed.

The Committee of Review, City of Winnipeg Act, was chaired by Judge Peter Taraska and its members were Mr. Earl Levin and Professor Allan O'Brien. Their **Report and Recommendations**, referred to as the "Taraska Report", was released in 1976. It called for a major change in the structure of Unicity. It called for a statutory imposition of a parliamentary system by having the Mayor elected by Council instead of at-large, by creating a cabinet system, and by having a person elected as "chief critic" (the leader of an official opposition). It also recommended a modest reduction in the size of Council (from 51 to 39), and more flexibility for Council in creating its own Committees, administrative structure and planning process.

The Province did not adopt the major political change proposed by the Taraska Committee. The Mayor continued to be elected at large and to chair Council, and the Executive Policy Committee continued to function as it had.

^{*}*Proposals for Urban Reorganization in the Greater Winnipeg Area*, (Winnipeg: Province of Manitoba, 1971) p. 19.

On the other hand, in 1977, the size of Council was reduced (from 51 to 30), a more substantial cut than Taraska had recommended, and other changes were made to allow for more flexibility in the way Council made decisions. The changes allowed Council to create different standing committees, to remove overlapping jurisdictions, and to dispense with the Board of Commissioners. It also centralized power by deleting sections of the Act that provided delegation of some powers to Community Committees. Thus within a short six-year period the Provincial Government allowed changes in the original Unicity Act that altered some of its main features.

Interestingly enough, the current political and administrative structure of the City of Winnipeg is very similar to

the one created by the original Unicity Act of 1971 despite even greater flexibility given to it by amendments since 1977. Council has retained the Board of Commissioners and the Standing Committee system (adding one extra Standing Committee). This has effectively preserved the confusion of overlapping jurisdictions—both between politicians and administrators, and between various Committees.

Despite the amendments made to the City of Winnipeg Act in 1977 and subsequently, or perhaps to some degree because of them, difficulties persist with the operation and administration of the Act, problems which are identified by the Review Committee throughout this Report.

SECTION 4: COMMITTEE RECOMENDATIONS

The Review Committee draws a number of lessons from Winnipeg's recent political history.

The Committee recognizes that this is the latest in a series of studies of Winnipeg's city government which have followed in quick succession since the late 1950s. Such studies impose strain on the political and administrative systems. City officials must take time from their duties to participate in the enquiry process. There is as well uncertainty about what types of changes may be recommended. And finally, there are the inevitable adjustments which must be made when change is introduced. Once the recommendations contained in this Report are dealt with, city government would benefit from a period of relative stability. To make the point with a flowery metaphor, if governments continue to pull up the plant of city government frequently to inspect its roots to see if it is healthy, city government will be weakened as a result.

Despite being under the microscope in one way or another for the past two and a half decades and having to adjust to some very dramatic changes, the City's political and administrative system has worked reasonably well. We cannot say on the basis of what we heard that there is widespread dissatisfaction among Winnipeggers about the performance of their city government. Admittedly things would have to be pretty bad for most people to take the time to complain before an official body like a Review Committee. In fact, while we had a very gratifying response from citizens to our invitation to share their views on city government, we obviously heard from only a small percentage of Winnipeggers.

Most people, we suspect, appraise city government on the basis of the reliability and the quality of the services they receive. In this regard, past reforms have served Winnipeg well. While the Review Committee did not undertake a survey or management audit, it is our impression that the services provided by the city's departments are generally sound and well managed. No one wants to sacrifice the gains achieved through the unification of services on a city-wide basis.

The rapidity of changes to city government since the 1960s has undoubtedly enlarged the role of the civic administration, especially of those individuals at the senior levels, from what that role might otherwise have been. The administrative arm of government has come to play a major role in all political systems because of the expert knowledge and specialized information which its members control.

In particular, the Board of Commissioners has been thrust into a very prominent role. Inevitably the influence (or real power, depending upon one's perspective) they are perceived to exercise has been the cause of some resentment among Councillors and citizens. It is too simplistic, however, to make the Board of Commissioners the scapegoats for problems which may be inherent in the system. The Review Committee wants to see the appropriate democratic relationship between politicians and public servants maintained, which means that Council should determine policy and the administration should implement. We are concerned about a blurring of political and administrative roles. Our reading of the recent historical record nevertheless suggests that the transformation to a unified city government would have been far more difficult were it not for the professional skills and dedication of city officials, especially those at the senior level.

The history of Winnipeg contains a warning about the problems of political fragmentation. The city could not cope adequately with planning and development issues when authority was dispersed to a number of independent municipalities. There is no turning the clock back to the Metro or pre-Metro days; no one even suggested that we consider that possibility. When there were numerous municipalities, reliance was placed upon a series of semi-autonomous administrative bodies to achieve coordination of services and planning across municipal boundaries. The loss of political control and democratic accountability entailed in the creation of semi-autonomous organizations was a worrisome trend.

4.1 This Review Committee's Approach

Recognizing the adjustment problems involved with major structural changes, the Review Committee resolved to suggest alterations to **The City of Winnipeg Act** only where we were convinced that there were compelling reasons to do so. These reasons are invariably rooted in one or more of the principles of good government discussed in our **Issues Paper** and amplified since then. We also resolved to frame our recommendations within the context of Winnipeg's local municipal tradition and what we perceive to be the limits of practical acceptability.

Yet, at the same time, we have not hesitated to throw out some definite challenges to the prevailing practice and established patterns of behaviour of municipal and provincial decision-makers.

The Review Committee recognizes, however, the limits to what can be accomplished in terms of dealing with pressing urban problems as a result of changing the structures and processes of city government alone. At best, improvements to the political arrangements for the city can lead to more efficient, coherent and accountable decision-making. Good structures and good procedures, therefore, do not guarantee that good policies will result. The Committee sought to avoid the natural tendency to claim dramatic improvements as a result of the changes it is proposing. We believe strongly in the value of our recommendations, but we have tried not to oversell them.

The Review Committee affirms the distinctiveness and importance of municipal government. It follows different traditions and practices from the senior orders of government, but the issues involved often have an immediate impact on the lives of citizens. City government does not always receive the respect, credit, and independence that it deserves. Residents tend to take it for granted. Fewer citizens vote in city elections than in elections for senior levels of government. The media do not cover City Council matters in as much depth as provincial and national matters. Some Councillors seem to suffer from an inferiority complex as exhibited by their reluctance to give themselves the tools and resources necessary to do an increasingly demanding job. The habit of trading in seats on City Council for seats in the provincial legislature or Parliament is, in our opinion, unfortunate. Political careers at City Hall should be more recognized as a meaningful and fulfilling form of contribution to public life.

4.2 Principles Underlying the Committee's Recommendations

In our **Issues Paper** published in November 1984, the Review Committee presented criteria for assessing **The**

City of Winnipeg Act and its operations. We now return to those criteria in order to report on our findings.

The City of Winnipeg Act should grant City Council clear authority and well-defined responsibilities. In revising the Act, the goal should be to eliminate as much as possible the ability of politicians at both the provincial and the city level to blame the structure for their particular actions or inactions. There must be a structure where the respective roles of the two governments are understood. Some matters will be a provincial responsibility, some will be the city's responsibility, and other responsibilities will be shared. Our goal has been to clarify these responsibilities so as to discourage political buck-passing.

The City of Winnipeg Act should encourage open and accountable city government. The Review Committee believes that the process of decision-making within city government should be as visible and as easily understood by citizens as possible. We want to make certain that the decision-making process is less protracted and confusing. We want citizens to know the issues facing city government and to be able to identify the public officials who are in charge of those issues. Real policy debates rather than procedural wrangles should be featured in City Council. Clearer democratic accountability to the electorate for policy results should be encouraged. The roles of the Council and the senior administration should be structured to ensure that politicians have the final word on policy.

The City of Winnipeg Act should contribute to the responsiveness of city government and to the involvement of city residents. As the level of government which has the most immediate impact on the lives of citizens, city government should exhibit a high degree of responsiveness to both their policy concerns and their service requirements. If it wishes to enhance the quality and the acceptability of its decisions, city government at all levels should seek to involve residents in the development and implementation of policies and programmes.

The City of Winnipeg Act should encourage efficient, economical and effective city government. Ensuring the effectiveness of city government—that city policies and programmes are meeting their intended goals—is a political function. We believe that improvements are possible in the political process in identifying and pursuing goals for the city. Poor performance in the clarification and the achievement of goals will detract from the legitimacy of and support for city government.

The City of Winnipeg Act should encourage city government which is flexible and adaptable. Communities change and so do the functions of city government. Within the bounds of establishing clear structures for decision-making, the Act should avoid imposing an unduly rigid framework on the City of Winnipeg. There are structural and procedural requirements necessary to ensure the recognition of legitimate provincial interests in city activities and to provide protection for the rights of citizens. While the Review Committee is proposing some new requirements to be met by the City of Winnipeg, it is also trying to recognize an enlarged area of independence where the City could make its own choices for the future.

The recommendations presented in the following sections of this Report reflect the principles outlined here. In most cases, our recommendations are closely interrelated and particular recommendations serve more than a single principle.

4.3 A Guide to Reading the Committee's Report

The Committee's recommendations are to be found in Sections 5 through 12 of this Report. There are in all 73 recommendations, ranging from a single statement to a

number of pages in length. All recommendations are listed in summary form in Section 13.

The first part of each section is an "Introduction and Summary" for the rest of the section. In the introduction and summary we provide an overview of the subject matter of the section in order to provide the context for the individual recommendations that follow.

Each section then contains numerous recommendations grouped around various themes. Some recommendations propose changes to **The City of Winnipeg Act**; others are suggestions made to various governments which do not require any amendments.

We place the recommendation first, after which a discussion of that recommendation follows. We encourage the reader to hold off judgement on each recommendation until she or he has read the discussion and understood its relationship to other recommendations.

The reader will note that the Committee has not achieved unanimity on all matters. Where there is disagreement on specific recommendations, we have noted the nature of the disagreement in the discussion section.

Section 5 deals with Provincial-Municipal Relations. In that section we discuss the necessity of clarifying the jurisdictions of both the Province and the City, and of encouraging a cooperative rather than an adversarial relationship between them. The Committee believes that the discussion in this section is important for understanding the whole report.

Section 6 deals with the political and administrative structure of Council. This section discusses the issues about which we heard most in our hearings and reflects our desire to create a political structure that would shed light on decision-making responsibilities. In this section, we deal with such issues as the powers and responsibilities of Mayor, Executive Committee, and Council; roles and authority of boards, commissions, advisory committees, authorities, and corporations; compensation for Councilors; powers of Community Committees, size of Council; ward and Community Committee boundaries; municipal elections; and administrative organization.

Section 7 is a more technical section dealing with a most significant aspect of the City's powers—the power to plan, oversee and regulate the development of land. It deals as well with environmental impact concerns and the particular question of urban waterways.

Section 8 deals with a vexing problem—the relationship of the City and the Province to the rural municipalities neighbouring the City. A solution to the jurisdictional arguments is, we believe, of major importance to the future of the City and its environs.

Section 9 deals with a significant and innovative part of **The City of Winnipeg Act**—that part promoting resident involvement between elections. As well, the problem of service to Francophone residents, the issue of access to and provision of information, referenda, and a role for a new City Ombudsman, are discussed.

Section 10 deals with enforcing **The City of Winnipeg Act**. It deals with the problem of making certain that the City performs its statutory obligations.

Section 11 contains recommendations concerning amendments to the Act which do not arise in the context of the preceding sections. The first part entails recommendations to "clean up" the Act and make it more understandable; the second with relations between the City and school divisions.

Section 12 contains two recommendations for implementing all the other recommendations contained in this Report. The Committee believes that the process of implementation is as important as the recommendations themselves, and that many of the recommendations should be phased in over a period of time.

It has not been possible to correlate the concerns expressed by each person or group who made submissions to us with the particular recommendations we have made. We wish to thank all those who made submissions, either oral or written, and wish to assure those persons—who are listed in Appendices I and II—that we have taken their

concerns into account. We have not always agreed with the solution proposed by each submitter, but we believe that those who made submissions to us will find their concerns addressed to a great extent. We wish to thank all those who communicated with us during the course of our work.

SECTION 5: PROVINCIAL-MUNICIPAL RELATIONS

Introduction and Summary

Relations between the Government of Manitoba and the City of Winnipeg are deceptively simple in strict legal terms; yet they are vexingly complex and frequently fractious in practice. In legal terms the provincial government clearly has the upper hand. To use the popular phrase, the city is a "creature of the Provincial Government." This means it is legally subordinate to the province and derives its corporate existence from a provincial statute. Through the passage and periodic amendment of **The City of Winnipeg Act**, the Legislative Assembly of Manitoba delegates certain duties, powers, authority, functions, and responsibilities to the City, and also prescribes the basic structure for city government. Other Provincial Acts also affect the City.

Relations between the City and the Province, like those between the Provincial Government and the Federal Government, involve two orders of government and a division of powers. But beyond these elementary similarities, the differences are so fundamental that readers should purge from their minds any tendency to think about the relationship in the more familiar terms of Federal-Provincial relations. Unlike governments in a federal system, the City and the Province are not constitutional equals. Their relations are conditioned by a provincial statute, not by a constitution. City authority is no more and no less than what is expressly laid down in **The City of Winnipeg Act**.

Historically, the division of powers between the City and the Province draws its strength from a marriage between democratic values and administrative necessity. To some, decentralizing authority is seen as a way to safeguard the political freedom of urban residents from provincial government control over local decisions. It is also seen as a means to encourage citizen access to government and to provide for the efficient and responsive delivery of certain local services. There is still much validity in this case for local decentralization. Even though the practice of local democracy is not always as vibrant as some might like, the commitment to grass roots democratic values within our political culture remains strong.

Decentralization of authority to local government is also dictated by the administrative requirements of providing such local services as sewer, water, transit, fire, and police. It makes no practical sense for a provincial government to attempt a takeover of the traditional functions of cities. Moreover, the Provincial Government may deem it more suitable on grounds of efficiency or effectiveness to have the administrative apparatus of the City Government serve as the delivery agent for what are, in effect, provincial programmes. The conditional grant mechanism is the principal way that this is accomplished.

Provincial Responsibility

It is because of its ultimate legal authority that the Provincial Government cannot escape some degree of responsibility for the directions taken by the City of Winnipeg. It sets limits on City actions by means of **The City of Winnipeg Act**. The Provincial Minister of Urban Affairs must, for example, approve the development plan for the City before it comes into effect. Furthermore, the Provincial Government makes both conditional and unconditional grants to the City for various purposes, and the responsible Ministers must account, first to the Legislative Assembly, and ultimately to the public, for the use of those Provincial tax dollars.

On the other hand, the City of Winnipeg is itself a multi-functioned level of government. It controls a territory, has its own electorate, raises taxes, legislates policy, conducts

planning, and has the administrative capability to implement its decisions. Unless local government is to become a charade, considerable respect must be paid to the legitimate governing role of the City.

An additional complication is introduced by the impacts of the Government of Canada's programmes on the City. Such impacts are of three types. First, there is the sheer physical presence of the Federal Government as an owner of buildings, a developer and a major employer. Second, the Federal Government is a taxpayer paying grants-in-lieu of property tax to the City of Winnipeg. Third, and most important, there are the direct and indirect impacts of Federal programmes on the City of Winnipeg. A variety of Federal programmes, in such fields as economic development, housing, transportation, communications and culture, can have a positive or negative impact on the quality of economic and social life in the City. They also can serve to promote greater equity in the provision of local services across Canada.

Even though the City is constitutionally subordinate to the Province, successive Provincial Governments have shown a pragmatic attitude in allowing tri-level dealings to take place. This is consistent with the long-standing Provincial position that urban development is not a concern only of the City Government but must also be a product of cooperative effort among all three orders of government. We applaud and encourage the continuation of such an approach. For the Province to insist on grounds of strict constitutional dogma that the Federal Government should deal with the City only indirectly and exclusively through the Provincial Government could deny the citizens of Winnipeg future benefits.

Tri-level projects, such as the on-going Core Area Initiative, will probably be tried again in the future, as the three orders of government seek to share the financial costs (and possibly the political risks) of embarking on new capital and operational spending when the economy is not buoyant. Both the Province and the City will be in a better position to reap the benefits of future federal spending if they individually and collectively "get their acts together".

There are enormous capital expenditures to be made on municipal infrastructure over the next several decades and a concerted Provincial and Municipal push on Ottawa over several years might be more successful in releasing some scarce dollars. Joint contingency planning may also become a necessary defensive strategy in the event of future cutbacks in Federal spending. The City of Winnipeg must be concerned about the withdrawal of the Federal Government from the direct delivery of urban-related programs in favour of block-funding to provincial governments and the forecasted reductions in anticipated Federal fiscal transfers to Manitoba over the next decade.

In sum, Provincial-City relations can be described in general as involving quasi-subordination. Although the Province enjoys legal superiority, the relative independence of City Government is protected by forces embedded in the political process. Neither government operates in a vacuum. Both are involved in intimate and complicated relations with each other, with the national government, and with other institutions in the private sector. Changing economic and social forces make such relationships fluid and evolutionary.

Participants must be able to cope with this dynamic situation of shifting priorities among governments. For example, the agenda of Provincial-City relations has shifted

from the growth-related issues associated with the 1960s and 1970s to the slower growth and financial restraint concerns of the 1980s. A scarcity of funds has undoubtedly heightened tensions and contributed to an escalation of rhetoric between the two orders of government.

Since change has been a constant in Provincial-City relations, the legal and political framework in which they operate must be flexible and adaptive. The idea of a permanent division of powers is utopian. While it may be possible to obtain a clearer alignment of responsibilities and resources, a final solution to the tensions of Provincial-City relations is not attainable. There will always be some degree of conflict and some measure of controversy between the two orders of government and it is healthy and proper for there to be such.

Without looking for an organizational panacea, governments should strive to establish arrangements which would ensure accountability of each government for its respective responsibilities and would permit productive collaboration between them. The public will be the ultimate judge of the success of the two governments in managing their particular responsibilities and matters of mutual concern.

Municipal "Home Rule"

Finding a proper balance is not easy because everyone does not agree on the direction that Provincial-City relations should go. One view sees the City as a competent and capable policy-maker in its own right. The City is said to have matured as a level of government and should not remain under the paternalistic direction of the Provincial Government. Over time the City has assumed new programme responsibilities, beyond the functions traditionally associated with local governments. City officials maintain that despite an inadequate revenue base consisting mainly of the property tax, the City has acted in a fiscally responsible manner.

It should now be granted, the argument goes, meaningful access to the so-called growth taxes so that its revenues will more closely match its expenditure responsibilities. Conditional grants from the Provincial Government (involving as they do an impact on City budgetary priorities) should be relied upon less as a means of fiscal transfer or disappear completely. The **City of Winnipeg Act** should be amended to remove the present restrictive features which prescribe details of City Government or require Provincial approval for certain City actions.

In summary, if one accepts these arguments—which are favoured by many City officials—the City would be granted clear jurisdiction with a minimum of Provincial involvement and control. It would be freer to develop its own policies and to accept political accountability for outcomes within its own spheres of responsibility. Some advocates of a new role for the City go so far as to suggest that the City should be granted an explicit constitutional position which could not be altered unilaterally based upon the shifting priorities or the apparent political whims of successive Provincial Governments.

The City as Provincial Administrator

A second model of Provincial-City relations would seem to be at the opposite extreme from the above. The City is seen as little more than an administrative arm of the Provincial Government with limited delegated legislative authority. Talk of sovereign and co-equal governments, concepts borrowed from the field of Federal-Provincial relations, is held to be inappropriate and inaccurate when applied to the Provincial-City relationship. That relationship is unitary rather than Federal in nature since it is not based upon a constitutionally guaranteed division of powers. The City derives its authority from the Provincial Government which assumes the political responsibility for setting the policy framework for local government.

In the real political world (legalities aside), the Provincial Government will be held at least partially accountable for the quality of life enjoyed by urban residents. This accountability is obvious in the case of the many services and functions performed directly by the Province within the urban area, but it is no less real in the case of services and functions provided by the City within the legal and financial framework set by the Province.

Furthermore, it is argued that in practical terms the City can never hope to be an equal partner with the Province. No Provincial Government would be prepared to grant complete autonomy and equal status to a local government unit which represents approximately 60 per cent of the Provincial population and is the main centre for economic activity within the Province. In an era of constrained financial resources, the Provincial Government will not be able or willing to provide all the revenue sources which the City would need to assume complete responsibility for present and future expenditures. Provincial cabinets and the Manitoba Legislative Assembly always contain a significant number of members who represent constituencies within the City of Winnipeg. These representatives can claim that they, at least as much as the Mayor and City Councillors, are in a good position to interpret the needs and preferences of City residents, from a Provincial perspective at least.

In sum, Provincial Governments will not, and should not, be completely indifferent about what goes on within city boundaries (or even where those boundaries should be located). Nor will Provincial cabinets feel so constrained by principles of local autonomy as to prevent them from taking direct action if City matters are seen as sufficiently important to "Provincial interests", however this vague phrase is defined. It is unrealistic in this second perspective to expect any Provincial Government to grant the City "home rule", where this phrase is interpreted to mean that the City would have the power to frame, adopt and amend a charter for its own governance.

A more likely trend is for continuing (and perhaps growing) Provincial supervision and involvement based upon a revised **City of Winnipeg Act**, the application of Provincial laws and regulations to certain City responsibilities, and the use of the Province's greater fiscal capacity to support local government and to induce the City, especially through conditional grants, to undertake certain activities. In sum, this view maintains that the Provincial Government will always have policy objectives, admittedly somewhat vague and shifting, in relation to the City of Winnipeg, and it will enjoy an advantage in dealing with the City because of its legal supremacy and its greater financial capacity.

The Committee's Approach

If these two models represent ends of the spectrum, a third approach would be somewhere in the middle, which seems to be closest to the present situation. Such an approach would suggest a significant degree of autonomy for the City, achieved partly through a clearer delineation of the respective roles of the two orders of government, with the Provincial Government retaining some control through restrictions on the City's policy role in certain areas of jurisdiction and through reserving the right to intervene in particular situations. Neither a high degree of Provincial control nor virtual City autonomy seems possible or desirable. The challenge is to achieve a judicious mix of City independence with clear and appropriate Provincial involvement.

Some intermingling of the responsibilities of the two governments is inevitable. The two governments must recognize such interrelationships and their interdependence in many fields of public policy. Each government should consider the implications of contemplated actions for the other government. Wherever desirable and pos-

sible, steps should be taken to harmonize City and Provincial actions so as to ensure, to the greatest extent possible, that they complement, not contradict, one another.

Meaningful collaboration, not confrontation, should be the goal of all Provincial-City interactions. We recognize the idealistic nature of the last statement, especially in light of well publicized clashes between the two governments. And it is obvious that there will be conflicts in the future. While institutional and procedural changes such as those the Committee recommends in this Report, provide no guarantee of harmony in the relationship, we believe they can facilitate understanding and cooperation. Ultimately, the quality and the success of the relationship between the Government of Manitoba and the City of Winnipeg will be determined by the political attitudes and behaviour of the principal actors representing the two governments.

Successive provincial governments have been most reluctant to make a broad delegation of powers to the City; instead delegation of authority has been constrained by requirements for ministerial or cabinet approval, and by the practice of providing conditional grants. For example, there is joint involvement by reason of Provincial policy direction, requirements for Provincial approval, and financial transfers in the following fields (and the list is by no means exhaustive): planning, municipal borrowing and capital budgeting, property taxation and assessment, economic development, social assistance, health, housing, sewer and water, transportation, education, recreation and culture, and environmental protection.

In theory some substantial measure of disentanglement of the two governments would seem to be desirable to promote greater clarity of jurisdiction, more efficient decision-making and greater democratic accountability by both governments to their respective electorates. The current system is said to cause a blurring of responsibilities and encourages political "buck-passing" whereby one government blames the other for actions or inactions.

In practice, a more precise separation of Provincial and City responsibilities is very difficult to achieve because decisions by one government will always have impacts and implications for the other. In other words, interlocking activity reflects, in large measure, the fact of interdependence between the two governments. Even if the goal of clearer responsibility were accepted, it would not be easy to achieve agreement on a clear-cut division of powers.

In short, there is no magic list of Provincial and City powers to which all the relevant actors would subscribe. If an allocation of responsibilities were made today, there is no guarantee, in fact little likelihood, that it would remain relevant for the long-term future — nor even for the medium range of the next five to ten years given the pace of economic and social change. The present situation of confused jurisdiction is admittedly messy and appears illogical at times, but it may reflect the enduring realities of City-Provincial relations. Those individuals who like neat categorizations and harmonious relations at all times had better look outside the area of Provincial-City relations for satisfaction.

Having acknowledged the dominant influence of certain political and economic realities which shape the City's relationship with the Province, the Review Committee believes that some things can be accomplished in terms of a clearer assignment of responsibility and more productive dealings between the two governments. Elsewhere in this Report we make recommendations which are intended to clarify and stabilize the means by which the City or the Province exercise their authority under **The City of Winnipeg Act** and, conversely, to prescribe negative consequences when they fail to carry out duties

assigned to them by the Act. In the interest of democratic accountability we believe that neither government should be encouraged or allowed to exercise their authority or to abdicate their responsibilities in a surreptitious manner.

Both should be compelled, as far as possible, to boast and confess in public about how they are exercising their individual and joint responsibilities for the future well-being of the City of Winnipeg.

The Province's own goals and aspirations for the City are the principal determinants of the City's powers and responsibilities. Throughout this Report we urge the Province to define carefully the sphere of the City's responsibility and to make more visible its own role in City affairs.

The Review Committee believes:

- That greater responsibilities should be placed in the hands of the City;
- That broad clear powers and an improved decision-making system are required for the City to meet its obligations;
- That both more active enforcement of the Act and improved public access to the political process will ensure that the City lives up to its responsibilities and exercises its powers fairly; and
- That the City should be given increased access to a wider choice of financial and other resources to implement its policies.

Our position favouring more power to the City is not taken lightly, and we would like it to be clearly understood. Neither home rule nor local autonomy is our rallying cry. In our view, these are catch-phrases, generally devoid of substance, and do not accurately describe either an actual or a possible municipal condition. We are emphatically not saying to the Province, "Hands off the City." The Province must, and will, remain a key player in municipal affairs in Winnipeg.

In several of our recommendations, we suggest that the Province's exercise of its authority be somewhat circumscribed and in some cases be made conditional. At the same time, in these cases and in others, we suggest that the Province exercise its powers and responsibilities with greater vigour. The Province should effectively establish the rules of the game, establish minimum standards of service and procedure, declare its interests openly and early, involve itself in the urban and regional development process, and collaborate with the City in a long-term governing partnership.

In this complex provincial-municipal relationship, we seek through our recommendations to establish clearly who is ultimately responsible for taking decisions in specific areas, to make those decisions clearly visible to the electorate, and to enable the citizens of Winnipeg to make informed judgements to hold both their municipal and provincial elected representatives accountable for those decisions. No less should be required of democratic governments.

5.1 Provincial-City Financial and Service Relationship

Recommendation 1

Province to Initiate a Joint Provincial-City Urban Finance Review

The Review Committee recommends that the Province of Manitoba appoint a study team, including representatives of the City of Winnipeg, to undertake a comprehensive review of and make

recommendations on, the future requirements for financing urban services and operations.

The study team should review the overall provincial-municipal financial relationship, including:

- the experience with tax sharing,
- the issues of assessment,
- the place of school taxes,
- joint financial planning,
- clear responsibility for raising revenues, and
- broader taxation choices for the City.

The study team should be given a definite reporting date and its findings should be made public.

While the Review Committee declines this opportunity to make precise recommendations, we advance the following principles as an initial framework for restructuring the provincial-city financial relationship:

- any financial transfer system should not undermine the independence of the City with respect to its areas of responsibility;
- City and Provincial responsibilities for raising and expending money for municipal purposes should be clearly identified so as to enhance accountability to taxpayers;
- taxing and financial transfer arrangements should be relatively simple for reasons of administrative convenience and public understanding;
- financial transfer arrangements should provide some measure of predictability in terms of revenue forecasts and should not be subject to abrupt unilateral modifications;
- the unique position of the City of Winnipeg within the Provincial economy should be recognized, which means that the financial relationship could differ from those between other municipalities and the Province;
- since social services, such as education, social welfare and health, have implications for equality of opportunity and for income distribution, it is proper that they should be paid for through the personal and corporate income tax;
- social services should be funded from the property tax only in those instances when City Council has decided that it wishes to improve the level and/or quality of services funded by the Provincial Government. For example, in the case of education, health and social welfare, the Province should provide 100 per cent of the costs and set the minimum levels of services, which the City Council could choose to supplement or to enrich from its own revenue sources;
- there should be regular consultation between the Province and the City about taxation and grant programmes so as to reduce arbitrary decision-making and to improve understanding and co-operation between both orders of government.

The Review Committee recognizes that these principles may not be mutually exclusive, nor are they always compatible in practice.

Discussion

No area of Provincial-City relations is more contentious than finances. According to participants from both sides financial dealings do more to colour the overall relationship between the two orders of government than any other single factor. In this field, the constitutional subordination of the City is very evident. The taxing powers and overall revenue structure of the City is determined to a significant degree by Provincial action. It is clear under **The City of Winnipeg Act** and **The Provincial-Municipal Tax Sharing Act**, which came into effect on January 1, 1976, that the City of Winnipeg lacks the power to change, unilaterally, its own sources of revenue.

The Property Tax

The property tax remains the primary source of City revenues. In 1972, when Unicity began, property tax accounted for nearly 60 per cent of the City's revenues, whereas in 1984 it accounted for approximately 54 per cent. While there has been a slight decline in the City's reliance upon the property tax, it must be remembered that this tax source is shared with the school boards. The Province has a very real impact on the level of the City's property taxes. Through its control of the formula for financing education costs combined with the Provincial system of residential tax rebates, plus its influence by means of conditional and unconditional grants, the Government of Manitoba has a substantial impact on the level of residential property tax in the Province generally and in the City.

There are a number of concerns about the suitability, fairness and adequacy of the property tax as the main source of City revenues. These criticisms will be discussed below. While the City can adjust the scope and rate of its current levies to obtain some revenue increases, it has to seek Provincial approval in order to gain access to the substantial revenues which might flow from use of the so-called growth taxes. These are taxes such as income and sales taxes, which respond more immediately to fluctuations in economic activity. The City has insisted for some years that it needs to reduce its dependence on the property tax.

The question about the appropriateness of the property tax as the primary source of revenue arises from the changing nature of municipal services. According to the traditional view, the property tax was originally intended and should still be used to fund improvements to property. Its use for other purposes, such as social services, is held to be unjustified. Such services, the argument goes, have distributional impacts which are more appropriately calculated and dealt with by the senior governments which control the personal income tax field. The greater spending power and scope for equalizing opportunities available to the national and Provincial governments place them in a better position to ensure equity.

Others argue that the City already has responsibilities which go far beyond its traditional function of service to property. It is involved in the provision of social assistance, public health, hospitals, support to industrial development, grants to cultural agencies, libraries, recreational facilities and programmes. According to this modern perspective, the City is deeply involved in promoting the general welfare of its citizens and it needs a broader revenue base in order to support its expanded role. The City has the professional capability to undertake a wide variety of social, economic and cultural initiatives, but no claim to the broad fiscal powers appropriate to such functions.

Programmes which support the general welfare of citizens often have redistributive purposes or implications and are more appropriately financed from general taxes on income or consumption. The property tax has been

labelled unfair because it is unrelated to the ability to pay. Moreover, the benefit of spending related to people extends beyond the boundaries of local governments and falls more readily within the scope of senior governments.

There are several comments which can be made about these arguments. Taking the last argument first, it has long been assumed that property taxes are regressive (that is, do not correspond to ability to pay), but more recently this assumption has been brought into question. The most recent comprehensive review of the literature on the subject concludes that:

The emphasis on personal income as the best index by which to judge the fairness of a tax does not present a complete picture. An individual's ability to command goods and services is not only a function of one's income but also of one's wealth, part of which is frequently held in the form of real property. Since high-income earners are more likely (through one device or another) to escape income taxes and since a large percentage of this income frequently is converted into property, a more extensive use of property tax would capture some of the untaxed income, a large portion of which consists of net imputed rent and is, therefore, nontaxable. Furthermore... a review of the recent literature challenges the claim that property taxes are as regressive as traditionally stated. In fact, the more recent interpretation and evidence suggests that the impact on taxpayers may be proportional and even somewhat progressive in the higher-income groups. The magnitude and strength of the traditional criticism of regressivity that has been levied against the property tax can no longer be upheld.*

This conclusion reflects the growing recognition that various tax incentives or tax credits built into the **Income Tax Act** allow upper income Canadians to shelter income against taxation and reduce the overall progressivity of the income tax system. The fairness of the property tax depends on the quality of its administration, particularly the assessment practices followed, and here there is clearly room for improvement. Provincial property tax credits have lessened the regressivity of the tax and are seen by Provincial officials to be an implicit subsidy to City Government.

The distinction between services to property versus services to people may be sound in theory, but it is difficult to apply in practice. Services such as sewer, water, fire and police protection, and roads are said to confer direct benefits on persons as owners or occupants of property, direct in the sense that such services are intimately connected with the value of property. Services whose connections to property are clear, however, can also have significant impacts on people. Sewerage and water supply can affect public health, for example. Furthermore, some so-called soft services confer indirect benefits to the owners and occupants of property. A fine school system, good recreational programmes and beautiful parks certainly enhance the attractiveness of a city as a location for industrial and residential development. In short, the benefit-to-property criterion, as the basis for identifying local government functions to be financed from property tax revenues, is neither as precise nor as useful as might appear at first blush.

One further comment on the service to people argument is in order with respect to the City of Winnipeg's particular situation. It is important to have objective information on the extent to which human services provided by the City are actually financed out of City revenues.

In fact, the social and public health services provided by the City are financed in large measure through Provincial grants. Libraries, ambulance service, recreational facilities, cultural and tourism activities, and the limited role of the Winnipeg Non-Profit Housing Corporation also benefit from Provincial financial assistance. In summary, it is possible to exaggerate the extent to which City services to people are financed from property tax revenues.

Recognition of the importance of Provincial fiscal transfers to the provision of such City services raises the concern that the City's political freedom is being compromised. Transfers may serve to bridge the gap between the City's expenditure obligations and its revenue capacity. But there is a cost in terms of less freedom for City Council to determine the nature, quantity and quality of services and the corresponding level of local taxes necessary to finance them.

Conditional Grants

Conditional grants from the Provincial Government allegedly interfere in City decision-making by inducing the City to spend more on the aided functions than on other services and priorities, assuming Council had determined them. Shifts or termination of conditional grants disrupt long-range budget planning and priorities, and leave the municipality with the decision whether to pick up the programmes and finance them. The intermingling of responsibility between the two levels of government causes confusion for voters as to which level should be held accountable for the results of particular programmes. A final concern is that conditional grants become the preserve of specialized bureaucratic interests from the two orders of government and once entrenched through years of renewals escape regular budgetary scrutiny.

The above criticisms of conditional grants represent the case for greater reliance upon unconditional transfers and/or some form of revenue or tax sharing between the Province and the City. While conditional grants may undermine local independence and detract from accountability, there are undoubtedly instances where they are justified. The Provincial Government is in a better position than the City in relation to certain matters to provide a more comprehensive interpretation of what actions are required in the Winnipeg region. Of course, there is no completely objective standard to judge whether the City or the Province has shown greater wisdom in the formulation of public policy as it relates to the City. However, because of the wider scope of its concerns, the Provincial Government is at times in a better position to identify and to reconcile the competing values and interests involved with particular situations.

As was noted earlier, the benefits of many public programmes, such as education, health and welfare, are not confined to the jurisdiction of the City but spill over into adjoining jurisdictions and the Province as a whole. The City might be tempted to neglect or to undernourish such services when the benefits are not enjoyed exclusively by its own residents. To discourage this, and at times to ensure consistency in the standards of programmes throughout the Province, the Provincial Government offers grants with conditions attached. An increased emphasis upon unconditional grants presumes greater Provincial indifference with respect to the type, quantity and quality of the programmes provided by the City, or at least a confidence that if grants were deconditionalized, the City would continue to provide the services at the appropriate level.

The usual assumption that the Provincial Government is always dominant within the context of the shared-cost relationship may not be appropriate in all cases. Usually, the assumption is based on the simple notion that because the Province pays the piper it calls the tune. It may also

*Harry M. Kitchen, *Local Government Finance in Canada* (Toronto: Canadian Tax Foundation, 1984), pp. 210-21.

reflect the belief that the Provincial Government possesses greater professional and administrative expertise than the City. Neither of these conditions may prevail in all instances.

In some areas the City possesses equal, if not greater, bureaucratic competence to the Province and will often have more intimate knowledge of the programmes or projects under consideration. It is impossible to determine precisely the extent to which the Provincial Government buys the compliance of the City with its spending proposals. An apt image might be that of a shrewd consumer (the City) bargaining with a rich merchant (the Province) anxious to make a sale. After all, in many cases if the Provincial Government hopes to realize its policy objectives, it is advisable for it to act through the City as its policy and administrative agent.

In summary, there are arguments pro and con respecting conditional grants. The mixed blessings involved with them seems to account in part for the shifting approach of successive Manitoba Governments to their use. After the election of the Progressive Conservatives on October 11, 1977 the Province made a decision to drop the conditions attached to certain grants that it was making to the City, starting in 1979. One unconditional block grant replaced nine conditional grants that existed at the time. It was also indicated by the Minister of Municipal Affairs that future increases in the block grant would approximate the anticipated rate of increase in Provincial expenditures, excluding the acquisition or construction of physical assets. An additional ten conditional grant programmes were excluded from consolidation in the 1979 block grant.

The election of the New Democratic Party on November 17, 1981, led to the replacement of the block grant on an interim basis with three separate grants to support both current and capital expenses of the City. The bulk of the funds were transferred unconditionally. In 1982-1983, the Province added two new conditional support programmes. Without going into further detail here, the current pattern is of conditional and unconditional transfers, including a number of limited and one-time grants.

If simplicity, public understanding and democratic accountability were the only values which should guide the restructuring of financial relations between the two governments, drastic streamlining of the transfer system would be called for. Moreover, the complexity of the grant structure undoubtedly leads to additional administrative costs since Provincial and City officials are obliged to construct, interpret and apply various rules of eligibility. Discussions over the amounts of the various grants to be paid annually complicate the forecasting of City revenues and budgetary planning. Of course, Provincial decision makers are not exempt from such uncertainty since nearly 40 per cent of Provincial revenues represent transfers from Ottawa.

In relative terms the City of Winnipeg might appear to be rather better off, relying in 1983 on grants from senior governments for only 19 per cent of its operating revenues. The national average for all municipal governments in 1983 was 45 per cent of their revenues derived from grants. Reliance upon its own revenues, however, may not be the best measure of the city's relative financial health since it may simply reflect a lower level of Provincial funding in Manitoba than elsewhere.

Tax Sharing

If Winnipeg seems to enjoy greater financial independence than most local governments, the main reason is that Manitoba is one of only two provinces to adopt some form of tax-sharing with its municipalities. **The Provincial-Municipal Tax Sharing Act** came into effect on January 1, 1976. It was the Provincial Government's response to the argument by all Manitoba municipalities that without new

revenue sources, hefty property tax increases or serious programme cutbacks would be impossible to avoid. The Act provided for the allotment of the yield from two percentage points (2.2 points beginning January 1, 1979) of the personal income tax and one percentage point of corporate income tax to municipalities on an unconditional basis. This is distributed to individual municipalities, including the City of Winnipeg, on a *per capita* basis with supplements for municipalities with rapid population increases or total population greater than 7,500.

In addition to allocating certain income tax revenues collected by the Province to municipalities, the 1976 Act authorized municipalities to pass by-laws imposing such forms of taxes as they deemed advisable, but subject to approval by the Lieutenant-Governor-in-Council (the Cabinet). Without limiting the generality of this authority, the Act set out taxes on hotel and motel rooms, restaurant meals, liquor purchases, and land transfers as examples of possible municipal taxes. In practice, municipal by-laws drafted to obtain additional taxing authority are reviewed by the Department of Finance, and the Minister of Finance recommends to the Cabinet whether to approve such requests.

The City of Winnipeg has not tested the limits of this additional taxing authority. No city by-law proposing a new tax has been passed and transmitted to the provincial government.

One request that the Review Committee found in its research involved a resolution of Council instructing the Mayor to determine the provincial reaction to a proposed hotel tax. In that instance the Honourable Eugene Kostyra, then Minister of Urban Affairs, replied to the City indicating that after hearing representation from third parties, the Provincial Cabinet had refused to approve the proposed hotel tax. No indication about the nature of those representations was given in the Minister's letter. Indeed, there is no requirement in **The Provincial-Municipal Tax Sharing Act** for the Provincial Cabinet to give reasons for rejecting a municipality's request for additional taxing authority.

It is dangerous to generalize from this one episode, but the Review Committee would make two observations. First, before City Council can legitimately complain that it has been unduly restricted to the property tax as its main source of revenue, it would have to test further the Province's willingness to approve new types of city taxes. The fact that new taxes might be politically unpopular might cause Council to hesitate, but that reason is not a valid excuse if the City is as hard pressed financially as it claims to be.

Our second observation would be that **The Provincial-Municipal Tax Sharing Act** should probably be amended to require the Province to state reasons when it denies a municipal request for additional taxing authority. A simple no from the Provincial Government offers no guidance for the municipalities on what policy considerations were involved in the Government's rejection and therefore municipalities will be in no better position to present further requests for new taxing powers.

There is no straightforward or universally-accepted answer to the question of whether the City of Winnipeg has access to sufficient revenues through its own taxing powers and transfers from the province to meet its expenditure obligations. Certainly the Review Committee is not in a position to provide a definitive answer to that question. The financial data currently used by each government will require reworking just to permit analysis from a common base. The joint study team would help to resolve disagreements between the two governments about the current financial situation of the City and how to proceed in the future.

Talk of the fiscal stress experienced by the City usually presumes that further steep increases in the property tax are inappropriate because of the alleged regressive nature

of that tax (a point which we have indicated is not as clear as it once appeared) and because of the presumed soon-to-be-reached tolerance limit of taxpayers for increasing property taxes. During recent economic hard times all jurisdictions have been forced to cope with a scarcity of revenues and to make unpopular cutbacks in expenditures. The City cannot expect to be immune from such wider economic forces. If more generous financial transfers from the Province were provided, this should not provide a reason for the City of Winnipeg to relax financial discipline in its own operations. Systematic in-depth evaluations of City programme activities will be necessary to support difficult expenditure decisions in the future.

5.1 PROVINCIAL-CITY FINANCIAL AND SERVICE RELATIONSHIP

Recommendation 2 Province to Broaden the City's Revenue Raising Choices and Responsibilities

The Review Committee suggests that the Provincial Government provide the City with access to a wider range of revenue sources, on the condition that the City's responsibility for raising revenues through any sources be clearly attributed to the Winnipeg City Council.

Discussion

The Review Committee believes that it is impossible to identify a list of City functions and to establish precisely the revenue requirements for those functions, and then to have the resulting revenue and expenditure match be permanent for many years. Both the revenues and the costs of City services are conditioned by general economic trends. The City government is a dynamic entity; over time it assumes new responsibilities and reduces its efforts in other fields.

A neat balance between revenue and expenditure responsibilities established at one point in time would likely become outdated within a few years. A primary requirement for the City's revenue system must therefore be flexibility.

The Review Committee is not in a position to make a definitive judgement on whether the City at this point has control over adequate revenues to meet its expenditure obligations. As mentioned above, the City Council has never tried to use the alternative tax sources available under **The Provincial-Municipal Tax Sharing Act** in the way called for by the Act by passing a by-law. It did make some requests. One request, however, was rejected by the Provincial Government and the reasons given by the then Minister of Urban Affairs were not very enlightening as to how the Province would respond to future requests. The present statutory arrangements for tax-sharing have not really been used extensively and the two governments would benefit from a joint exploration of the possibilities. A joint urban finance review is another recommendation (see Recommendation 1).

The Review Committee recommends elsewhere, in Recommendation 4, that the City be a more active participant in the process of economic and social development. Furthermore, our recommendations for changes in several other areas will impose additional costs upon the City.

Therefore, we are recommending that the City be granted access to a wider range of revenue sources.

Such minor tax sources as taxes on hotel rooms, liquor and land transfers, potentially available under tax-sharing would be of some help to the City, but broader forms of taxes should be available to it as well.

The City of Winnipeg, like governments everywhere in recent years, has experienced fiscal stress. The strains on the City's budgets, however, should not be removed by an unconditional transfer of Provincial funds. The City should rather take the political responsibility for imposing whatever new taxes or increases in existing taxes are necessary to meet its present and future expenditure obligations.

If tax sources are shared between the Province and the City, the principle of political responsibility should be upheld by a clear identification on the forms sent to taxpayers of the respective shares of the two governments. That is, where tax sources are shared, the beneficiaries and their respective shares should be identified by such devices as point-of-sale information signs for sales taxes, printed text on tax notices, and printed text on income tax forms.

5.1 PROVINCIAL-CITY FINANCIAL AND SERVICE RELATIONSHIP

Recommendation 3 City to Have Broader Responsibilities in Delivery of Social Assistance and Public Health Services

The Review Committee recommends that the Provincial Government establish standards and provide 100 percent financing for social assistance and public health services in Winnipeg.

The Committee further recommends that, within Provincial standards and guidelines, City Council be empowered to establish policy for and administer those services.

The Committee further recommends that the City should be able to continue to enrich Provincial social assistance and income maintenance programmes through municipal services, as Council may determine.

The Committee further recommends that the City of Winnipeg Health Department's jurisdiction be extended from its present boundaries to the boundaries of the City of Winnipeg.

Discussion

In the areas of social assistance and public health there are jurisdictional problems between the Province and the City that cause the Committee concern.

Social assistance is provided by the Provincial Government only to those persons who qualify under **The Social Assistance Act**. Those who do not qualify—generally those considered "employable" or who have not met eligibility requirements—are forced to rely on social assistance from those municipal governments which provide it. The Provincial Government funds approximately 80 percent of the cost of running the municipal social assistance system.

The City of Winnipeg provides a very sophisticated form of social assistance for those residents of Winnipeg who do not qualify for Provincial social assistance. The amounts paid to those who receive City social assistance are roughly comparable to the amounts paid to those who receive Provincial assistance, although the City's approach to services differs from the Province's. Other municipalities in the Province do not have such a sophisticated system and some provide a much lower level of service as well.

We believe that the Province should set out minimum standards for social assistance for everyone in need. Delivery of services to those standards should be funded

entirely by the Provincial Government. We believe, however, that there is no particularly valid argument that the Province should administer the system itself.

We therefore agree with the concept of the "one-tier system" recommended to the Provincial Government by the **Report of the Manitoba Task Force on Social Assistance** (the "Ryant Report") of September 1983 to the extent that we believe there should be clear minimum standards set out and that the Province should fund all persons in need. We believe, however, that decentralization of the delivery system can and should be accomplished within that one-tier system; that it would be possible through decentralization for the City to enrich its programmes in order to provide programmes specifically geared to Winnipeg's needs.

Public health is administered for an area roughly equivalent to the boundaries of the City of Winnipeg prior to amalgamation. It is administered for the rest of the City by Regional Health Districts of the Provincial Government. There is a difference between the City's and the Province's public health departments in the kind of services available and in attitudes toward public health.

Public health should be administered for the whole City of Winnipeg uniformly; the quality and the kind of service should not depend on where one resides in the City.

Delivery of social assistance and public health by the City's departments represents a useful form of decentralization provided that wide disparities in the treatment of similarly-situated individuals do not occur as the result of split jurisdiction. Minimum Provincial standards will prevent this from happening.

The City, as opposed to smaller municipalities, should be given responsibility to administer public health and social assistance programmes for all persons in Winnipeg to parallel its greater responsibilities for social and economic planning, discussed in the following recommendation.

5.1 PROVINCIAL-CITY FINANCIAL AND SERVICE RELATIONSHIP

Recommendation 4 City Urged to Assume Greater Responsibilities for Economic and Social Development

The Review Committee recommends that the City develop detailed policies and programmes for social and economic development in the City and that Council, in consultation with the Provincial Government, establish a joint City-Provincial task force to recommend and manage an improved coordination system for developing policies and delivering programmes in the social and economic areas.

Discussion

At an early stage in the Committee's deliberations, we unanimously agreed that the City of Winnipeg could and should be given the opportunity where possible to be far more proactive than it has been on social and economic issues.

The Committee recommends here that the City be provided with new and/or increased powers and resources as befits the most important and active municipality in the Province. At the same time we believe that, in return for increased powers and resources, the City of Winnipeg must take on increased responsibilities. If the City is reluctant or unwilling to do so and if it continues to emphasize the narrow provision of services to property, we believe it will require only limited additional resources or powers.

The Committee believes that the City should become a stronger and more active partner in the development and delivery of social and economic programmes within its boundaries. We are impressed by the quality and effective management of the City's health and social welfare services. Also, we perceive that the City Council and the administration have gained a deeper appreciation of their potential role in social and economic fields through participation in economic, employment and social programmes under the Core Area Initiative Agreement.

For the City to maintain maximum effectiveness in these fields will require sustained collaboration with the senior orders of government. To make a meaningful contribution to future collaborative efforts and to avoid being taken for granted by senior governments, the City should continue to strengthen its professional capability in these fields.

We also strongly support the current efforts of the City to develop an "Urban Social Policy Statement," the terms of reference for which were approved by City Council on February 29, 1984. According to the terms of reference, the purpose of this statement is to examine the role of the city and its relationship with senior levels of government and with social agencies to ensure that the city has the opportunity to initiate programmes and deliver services designed to meet the needs of the community; to guarantee the continuity of funding to programmes and initiatives developed to benefit Winnipeg's citizens; to ensure that programmes and initiatives provided by social agencies and governments have consistency of purpose; and to ensure that legislation and procedures provide for the effective and efficient provision of social services.

We urge the City to prepare equally comprehensive statements with respect to such matters as economic policy, economic development agencies, job creation, and related programmes.

In making these recommendations, the Committee recognizes the necessity for the continuing presence in these areas of the Provincial and Federal Governments. We also recognize the barriers to intergovernmental cooperation that must be overcome in such sensitive socio-economic areas, especially if the municipal government is to assume a more active and responsible role.

We believe that new arrangements among the City, the Province, and the Federal Government can be worked out and put into practice, and that the City's potential in social and economic growth can be realized. We are encouraged in this belief by the successes achieved to date and that can be expected from a renewed Core Area Initiative Agreement. We urge that the lessons learned through this and other experiences be put to work in establishing a new, positive partnership role for the City in charting the social and economic futures of Winnipeg's residents.

5.2 INTERGOVERNMENTAL COOPERATION AND CONSULTATION

Recommendation 5 Establishment of a Formal Provincial-City Consultation Mechanism

The Review Committee recommends that the Act establish a body to serve as a formal consultation mechanism between the Government of Manitoba and the City of Winnipeg. This consultation mechanism should bring together the Mayor and other members of the Executive Committee of Council and a committee of Cabinet responsible for Winnipeg affairs, created under *The Executive Government Organization Act*.

The purpose of this body would be to discuss and negotiate agreements on items of mutual concern, such as:

- the City Plan and amendments;
- regional planning;
- environmental protection;
- capital budgeting;
- intergovernmental agreements;
- social and economic development programs;
- municipal finance including capital financing;
- major project development;
- amendments to *The City of Winnipeg Act* and other relevant legislation.

Normally such consultations will be private, though the two parties could agree to participate in an open conference. Agendas for meetings should be known in advance and both governments should have the right to propose items for the agenda. Prior joint staff work will usually be essential to effective and expeditious decision-making in the intergovernmental forum.

Whenever possible joint communiques summarizing the outcomes of meetings should be issued. Each party will have a recognized right to communicate their positions to the media and the public, unless mutually agreed to the contrary.

Meetings should be held as frequently as business requires. We recommend specific provincial-municipal consultations on a review of the public finance requirements of City Government (see Recommendation 1) and on future reviews of the *City of Winnipeg Act* itself (see Recommendation 7). Elsewhere in the report, advance consultation is recommended in relation to the City Plan (see Recommendation 25), and regional planning (see Recommendation 42).

Discussion

The interests of the Provincial Government and of the City of Winnipeg intersect at so many points that mechanisms for effective consultation, coordination and collaboration are essential. In many instances, the two governments share fields of activity, but their respective roles and responsibilities are not as clearly delineated as one might hope.

We heard a number of submissions which called for greater consultation and coordination between the two governments. The present informal process brings together the Official Delegation from the City and the Urban Affairs Committee of Cabinet. We were told that this process builds in a number of weaknesses.

The Official Delegation is a group of Councillors, headed by the Mayor, to which Council has delegated a limited function: the members of the delegation represent the City at meetings between governments and on ceremonial occasions. The members of the Official Delegation do not act either as agents or as leaders in that they cannot commit the City to anything nor can they be sure of support from Council should they attempt to innovate. Generally the Official Delegation reports to Council on its activities through the Executive Policy Committee but this has not always been the case. The Official Delegation is one of the very few organs of political or administrative organization created by Council: it is not mandated by the Act.

The Urban Affairs Committee of Cabinet is headed by the Minister of Urban Affairs and its membership is made up of other Ministers. In general, urban Members of the Legislative Assembly of the government party also attend its meetings, which seem to consist entirely of the development of strategy for dealing with the Official Delegation and meeting with the Official Delegation. This Committee of Cabinet has some standing under *The Executive Government Organization Act*.

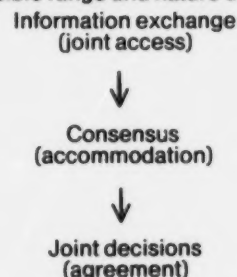
Neither the Official Delegation nor the Urban Affairs Committee of Cabinet is supported by any sort of permanent, single-purpose, bureaucratic body.

For a number of years these bodies have met on an irregular schedule. Such meetings are private, which is not to say that participants do not talk afterwards with the media about what went on. At times the accounts offered by City and Provincial representatives differ dramatically. In any case, the practice of the Official Delegation seems to have been a very hit-and-miss affair, which never occupied a consistently high place in the priorities of either government. Typically, the City approached the Province when it was seeking help, putting it in the position of going cap in hand.

Part of the perceived problem of inadequate communication and consultation appears to be definitional: the two levels of government have different notions of what constitutes meaningful consultation. Exhibiting some paternalism, Provincial governments have interpreted consultation to mean that the City had the right to be informed, sometimes with very limited advance notice, of decisions that would impinge on the City's interests. For its part, the City has sometimes acted as if the right to be heard by the Province implies the right to have its views accepted and when they are not, "bashing the gang on Broadway" is a guaranteed way to get headlines in the newspapers.

An arrangement which put the two governments on a more equal footing would be more productive. The Province should not use its legal and financial superiority to take the City for granted. It would be in the best political interest of the Province to consult City officials on important matters so as to forestall the criticism that it has acted unilaterally and arbitrarily. The City, particularly its political leadership, needs to bring more coherent and well prepared policy proposals to any future intergovernmental forum. Prior staff work on both sides would be an essential ingredient for success in these meetings. We recommend, therefore, that a formal consultative mechanism be established and that its broad outlines be confirmed in *The City of Winnipeg Act*.

A starting point to more productive dealings would be to obtain greater mutual understanding of the nature of consultation and coordination. The simple continuum below illustrates the possible range and nature of consultation:



At its most elementary level, consultation involves an exchange of views and information. Such meetings impart legitimacy to the participants and when done well can produce mutual education, which can affect later decisions. Further along the continuum, and arising out of a shared

information base, comes accommodation or consensus building where there may be agreement on general goals or directions. Building upon that, the participants may go a few steps further toward making joint decisions and agreeing on joint policies which each would be obliged to implement in their own spheres. How far along the continuum the consultation process moves depends on the demands and potential rewards to the participants.

The term "coordination" includes an elusive concept. Everyone agrees that the happy state of coordination is desirable though they seldom stop to explain how this is accomplished and what it entails. Two types of coordination are of concern here: intergovernmental coordination, which refers to relations between governments, and intragovernmental coordination, which refers to a consistency of approach within governments. (The latter is dealt with below in Recommendation 6).

The achievement of intergovernmental coordination would mean that the activities of the two governments would be reciprocal or mutually reinforcing, and not contradictory. The state of coordinated activity can be accomplished by both formal and informal means. It can involve one government, in this case the Province, imposing a direction on events or, alternatively, a process of mutual adjustment in which the two governments share information and take one another into account for the purpose of bringing their decisions and/or activities into harmony. Coordination of the mutual-adjustment variety will in most instances be more productive of harmony and positive accomplishments in City/Provincial dealings than a unilateral command-and-control approach by the Province.

Consultation does not represent a panacea to the problems of urban decision-making, but more effective mechanisms could produce tangible benefits. There are many areas of shared jurisdiction where both governments would benefit from increased consultation among politicians and the administrators involved.

Two types of changes are required to ensure that such consultations lead to positive accomplishments rather than a higher level of acrimony. First, there needs to be a behavioural change by both parties. If either is interested only in flexing their legal and political muscles to gain publicity, then discussions and negotiations will obviously not work. Any level of consultation requires a significant amount of political good will behind it for success to be obtained. Obviously the political commitment to meaningful discussions will vary from issue to issue, but the citizens of Winnipeg and the Province would benefit if the two governments drop their typically adversarial stance of recent years and search instead for ways to collaborate on matters of mutual concern.

The second type of change required involves the organizations and procedures to be used for consultation. There are no organizational arrangements or procedures to guarantee harmony and productivity in City/Provincial dealings. Private meetings are to be preferred so as to facilitate serious discussions and negotiations and to avoid the temptation to engage in political grandstanding which might occur in public meetings. On the other hand, closed City/Provincial meetings will add to the secrecy surrounding the policy process and could detract from overall accountability within the political system at both the Provincial and the City level. Therefore, there should be a strong onus on the participants to communicate the results of their discussions to the public.

The consultative process on the political level needs to be supported by a similar arrangement on the administrative level with co-operative studies and, where possible, joint recommendations developed through the collaboration of provincial and civic staff.

5.2 INTERGOVERNMENTAL COOPERATION AND CONSULTATION

Recommendation 6 Need for Improved Internal Coordination Within the City and Provincial Governments

The Review Committee recommends that both the Province and the City take immediate action to provide more effective and efficient coordination within their respective systems. The need for action is apparent to us at both the political and administrative levels.

Improved internal coordination of policy formulation and departmental jurisdiction is a prerequisite to sustained Provincial-Municipal cooperation.

Discussion

In addition to our concern about intergovernmental consultation and coordination (see Recommendation 5), the Committee notes an inadequacy in political and administrative coordination within each government. When the Manitoba Department of Urban Affairs was created in 1970, the intention was to provide horizontal coordination of the activities of the various provincial line departments which might have a significant impact on the City. The influence of the department was to be based upon the formulation of a Provincial urban policy which would encompass the specific program activities of other departments. As a department with a policy and programme coordination mandate, the Department of Urban Affairs was deliberately kept small in size, given a limited budget, and few programmes of its own.

The department has typically been led by Ministers with one or more other portfolios of much greater status and importance for Provincial interests. It thus has lacked the traditional sources of influence within government, namely a devoted and influential leader, a large budget, and numerous staff.

The Department of Urban Affairs, under several governments, has not been provided with, or produced and obtained Government approval of, a Provincial policy statement of urban goals or a Provincial land-use policy for Winnipeg that could coordinate the activities of other departments or establish a coherent Provincial basis for relations with the City.

It is our impression that Provincial goals with respect to the City of Winnipeg have not been well enough defined to serve as a guide in responding to urban issues. The Province has not been in a position, therefore, to communicate effectively its urban policies to the City of Winnipeg and its citizens. The Department of Urban Affairs cannot even monitor all Provincial initiatives which affect the City. Recent steps to introduce a process of strategic planning throughout the Government of Manitoba may enable the Department of Urban Affairs to achieve the more comprehensive and detailed statement of Provincial goals in the urban policy field that would provide unified approaches to City problems.

The City of Winnipeg has also encountered problems in presenting a coherent, consistent and forward-looking position to the Province. Coordination has been missing at the political level and, to a lesser extent, at the administrative levels. It is difficult to know exactly who speaks for the City in intergovernmental relations. While the Mayor receives a great deal of media attention in relation to the Province, neither the Mayor nor the Executive Committee is often in a position to initiate or

conclude agreements with Provincial officials without referring such matters back to Council or its committees.

The City's political system diffuses authority and makes approvals unpredictable. If the City wishes to promote ideas with the Provincial and Federal governments, or respond to initiatives from the senior governments, it has to achieve an internal cohesion. Other governments must be able to count on the ability of the City to cooperate and to follow through on commitments. Our recommendations to give the Mayor a leading role in Council and to establish an Executive Committee as an influential force within City Council and in the conduct of City-Provincial relations will, we expect, provide for more effective political coordination (see Recommendations 8 and 9).

5.2 INTERGOVERNMENTAL COOPERATION AND CONSULTATION

Recommendation 7 Province to Consult with City on Future Act Reviews and Membership of Review Committees

The Review Committee recommends that future reviews of "the operation of this Act and the activities of the city thereunder" (section 660) be undertaken in consultation with the city.

This consultation should include defining the terms of reference of the review, suggesting the membership of the committee or commission undertaking

it, and other related matters as the Province, in consultation with the City, may determine.

The Committee further recommends that successive reviews take place no earlier than five years after implementation of amendments resulting from the previous review, and that the review process not be an impediment to the normal and orderly flow of amendments to the Act, required or desired from time to time.

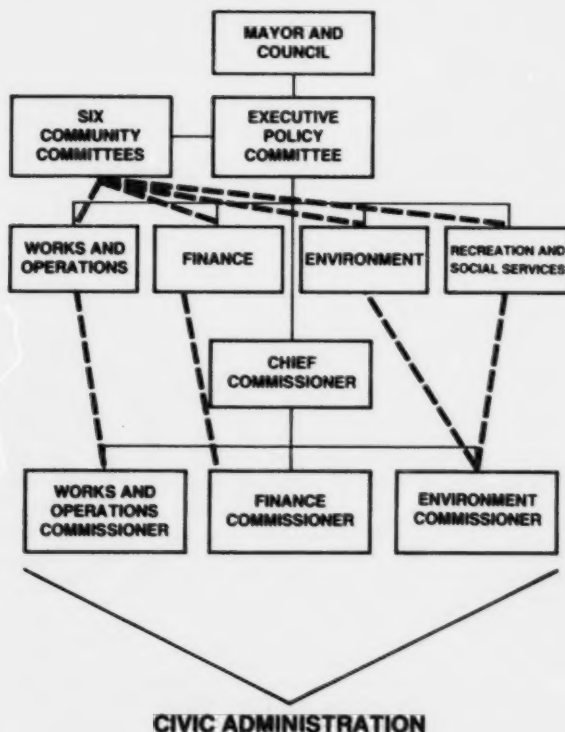
Discussion

The City is in a good position to contribute to any review of its governing statute. The Review Committee acknowledges the valuable participation of many members of Council and the civic administration during the course of our review of the Act.

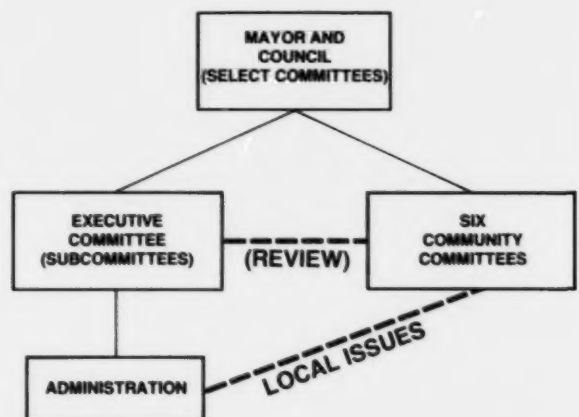
We believe that future reviews can be undertaken most efficiently and without delay if the Province formally consults with Executive Committee and Council prior to setting the terms of reference and appointing a review committee or commission. This view is consistent with our general conviction that provincial-municipal consultation and cooperation should be maximized wherever possible.

The Committee is also of the opinion that major reviews need not be undertaken frequently. In fact, we believe that Act reviews might normally take place at ten-year intervals. A minimum of five years is generally needed to begin to see the effects of statutory changes made previously.

CURRENT STRUCTURE



PROPOSED STRUCTURE



SECTION 6: POLITICAL AND ADMINISTRATIVE ORGANIZATION

Introduction and Summary

The political and administrative structure of the City of Winnipeg received the greatest attention from individuals and groups who made submissions to the Committee. This is not surprising because when most Winnipeggers think of city government, it is probably the Mayor, their Councillor or, to a much lesser extent, the Board of Commissioners, who come first to mind. Not only do many people take a personalized view of City Hall, they often mingle their assessments of the structures and processes with their happiness or unhappiness with recent policies and actions. An assumption behind many of the submissions was that a change in the political and/or the administrative structure would contribute to a better decision-making process and therefore to better policies from City Hall.

The Review Committee members were, of course, no less susceptible than others to the temptation to allow our personal opinions on recent city actions or inactions to colour our assessment of the city's institutions. While we might individually or collectively disapprove of things done by the City, our mandate was to assess the soundness of City institutions, not to question past policies. The ultimate test of the merits of City policies is acceptance by the electorate as a whole. We have consciously striven to keep our personal opinions about City policies separate from our evaluation of the institutions under examination.

Not surprisingly, many of the submissions dealing with the political and administrative structure were negative or critical. Presumably, few individuals who were pleased overall with how the city was operating would feel compelled to present a brief. Moreover, there is some inevitable amount of discontent and grumbling about every political system. No system is perfect and governments cannot please everyone all the time. The Review Committee tried to maintain a sense of balance and fairness when it heard criticisms of city government. We did not assume that intense and vocal opposition to city actions necessarily reflected more widespread disappointment and dissatisfaction on the part of Winnipeggers with their local government.

The numerous submissions on this topic were very helpful to the Committee in coming to its conclusions and recommendations. There were many thoughtful and original proposals for change to the city's structures. We have not adopted any one of these proposals in its entirety but the thinking behind all of them contributed to lively debate within the Committee and all have had some influence on our recommendations.

Organizational Shortcomings

In considering changes to the City's political and administrative structure, the Committee focussed primarily on what we found to be the system's major shortcomings. These shortcomings, often brought to our attention in briefs and presentations, are in our view:

- the general lack of identifiable and consistent political leadership within City Council;
- the unclear and insufficient delegation of authority to the Executive Policy Committee which limits its ability to provide initiative and direction to Council and managerial direction to the administration;

- the paucity of effective executive power and political leadership tools in the hands of the Mayor, the one civic politician elected at large;
- the need to clarify both political and administrative roles, so that Councillors can be held meaningfully accountable for policies which they determine, and civil servants can answer for the efficient and effective implementation of those policies;
- the confusion of roles and authority often present in the relationship between Council and its many boards, commissions, committees, authorities, and corporations;
- the need to clarify and define the proper roles and authority of Community Committees within the political structure;
- inappropriate boundaries for some Community Committee areas and wards, which more logically should be comprised of areas of mutual interest and which should reflect a more equitable pattern of representation by population;
- deficiencies in the traditional methods of voting, elections, and qualifications of electors in municipal elections;
- inadequate salaries, staff resources, and facilities provided to Councillors, and the absence of an acceptable method of making decisions on Council compensation;
- the apparent need and practice of the City's senior administration to fill policy vacuums created by the Councillors themselves;
- the maintenance since the amendments of 1977 by City Council of the Unicity Board of Commissioners system without a complete assessment of its merits.

Our Remedies

To correct these shortcomings, the Review Committee has sought primarily to create a clear and accountable political structure. Our proposal provides statutory authority for, and allows a significant additional delegation of Council's powers to, a small, full-time group of Councillors called the Executive Committee, led by the Mayor. This Committee would provide central policy initiation and would be responsible for overseeing and directing the administration of the City's business. Ultimate decision-making authority would continue to rest with the City Council, but the full-time Executive Committee would provide impetus and direction to Council activity.

The Committee proposes to augment the role of the Mayor by assigning new responsibilities to the Mayor, the only person elected with a broad mandate by all the electors of Winnipeg. Our intention is to provide him/her with the tools needed to become the effective leader of Council and hope that the Mayor's new powers of initiative and leadership will translate into action by Council.

Once in office, the Mayor will nominate and chair the Executive Committee and represent the Committee within Council. The Mayor thus becomes the central actor in Council's political decision-making. As such, we believe the Mayor should no longer sit as Chair of Council. The Mayor's powerful role as new executive and legislative

leader is inconsistent in our view with his current role as neutral presiding officer.

We consider this function better assigned to another member of Council selected to occupy a new position, that of Council's Presiding Officer. Elected by Councillors to provide impartial direction of Council proceedings, the Presiding Officer would be afforded the mandate and authority needed to act in a fair and equitable manner. He or she would also have sufficient powers and resources to protect and indeed enhance the rights of minority groupings of Councillors in advancing alternatives to the will of the majority.

Delegation of Authority

The degree to which authority is delegated is the key to whether the new structure will be complex or simple in its operation and how visibly accountable it is. Our recommendations would restrict City Council's power to delegate authority to groups of Councillors other than the Executive Committee and, in certain instances, Community Committees. The Committee believes that this restriction will provide for a clearer, more focussed exercise of power by the Executive Committee, and by the Community Committees, and will make it more difficult to create Standing Committees. We believe the Standing Committees, despite their usefulness in involving and informing Councillors, have on balance detracted from the effective, accountable and efficient operation of Council.

Amalgamation threatened the positions and prerogatives of the former Metro municipalities now comprising Unicity. In reaction, Councillors have developed an intricate practice of protecting the parochial interests of their ward constituents and of their old municipal entities. These parochial commitments produce both positive and negative results within the Unicity system, and this mixed record since 1972 provides a significant backdrop for the Review Committee's recommendations.

Community Committees currently have little power to make final decisions affecting their local area even if those decisions would have little or no impact on any other community. The Review Committee has struggled to suggest a method for enhancing local decision-making without detracting from the paramountcy of city-wide interests. If Community Committees are to be retained at all they must be given a significant and effective role in the City's political structure. That role, we suggest, is best played with respect to local planning, local land use approvals, and local service decisions.

What We Do Not Propose

Our recommendations will not turn the clock back to Metro or to any other two-tier form of municipal government. We have concentrated on redefining central and local powers and responsibilities. We do not question the basic structure and accomplishments of Unicity, but seek a further evolution of the system for greater effectiveness and accountability.

The Committee does not intend to insert—and indeed some members of the Committee reject—political or administrative mechanisms of a parliamentary nature within the Winnipeg municipal system. Where our proposals may be perceived by some to embrace the parliamentary model, they instead should be recognized as legitimate and useful mechanisms entirely within the varied tradition of municipal government in Canada and North America generally. On this point, the Review Committee clearly disagrees with our predecessor, the 1976 Committee of Review.

6.1 CITY COUNCIL AND MAYOR

Recommendation 8 A Strong Executive Committee

The Formation of the Executive Committee

The Review Committee recommends that the City of Winnipeg Act provide for an Executive Committee composed of six Councillors and the Mayor, who will serve as Chair of the Executive Committee.

Immediately following every municipal general election, the Executive Committee would be created by City Council voting by secret ballot. All nominations for positions on the Executive Committee will be made by the Mayor. Those nominees who receive over 50 per cent of the votes of Councillors present and voting would become members of the Executive Committee.

Should Council reject any of the Mayor's nominees, the Mayor would, no later than the next regular meeting of Council, nominate other Councillors until such time as Council approved of six of the Mayor's nominees.

Changing the membership of the Executive Committee

Membership on the Executive Committee would continue until the next civic election or until Council changed a member. Council could change the membership of the Committee in only two ways.

First, the Mayor could move (at any time with proper notice) that a member of the Committee be removed. Defeat of such a motion would require a negative vote of 60 per cent or more of Councillors present and voting. In other words, if the Mayor wished to drop an individual from the Executive Committee, it would take 60 per cent or more of Council to block the Mayor from removing that person.

Second, any Councillor could move (at any time with proper notice) that a member of the Executive Committee be removed. To pass, such a motion would have to be supported by 60 per cent or more of Council present and voting.

'Proper notice' means notice would have to be given at least one regular Council meeting in advance of the meeting holding the vote on removal of an Executive Committee member.

If a motion to remove a member of the Committee were successful, the Mayor would nominate, either immediately or in any case, no later than the next regular meeting of Council, another person to fill the ensuing vacancy. The Mayor's nominee would again require the ratification of Council.

Powers and Responsibilities of the Executive Committee

The Executive Committee would have certain powers and responsibilities. "Power" means the ability to act; "responsibility" means the duty to act. The major powers and responsibilities are set out here. Powers and responsibilities of a more technical or legal nature are contained in the discussion section that follows.

Powers: The powers of the Executive Committee to act independently of Council should be:

- to appoint and dismiss for cause and subject to any collective agreements all civic officials of the rank of Department Head, Deputy Department Head or higher, with the exception of those statutory officers whose appointment and dismissal are the subject of Council action;
- to give direction to civic officials on matters relating to civic personnel, including employee relations, collective bargaining, changes in the civic establishment and related personnel matters;
- to receive all reports from the City administration (excepting reports from statutory officers);
- to monitor and set policy direction for all municipal departments and services; and
- to delegate any of its delegated powers to one of its members.

The powers of the Executive Committee to act within and subject to the policy of Council should be:

- to ensure that all policies, programmes and budgets passed by Council are implemented, and to monitor such implementation; and
- to make grants to persons and organizations.

Responsibilities: The responsibilities of the Executive Committee should be:

- to co-ordinate, prepare, and submit to Council policies, plans, budgets, by-laws and other matters requiring the approval of Council, except those matters originating from Community or Select Committees, or from individual Councillors;
- to submit to Council an Annual Review of, and recommended amendments to, the Winnipeg City Plan;
- to submit recommendations to Council on all matters arising out of the administration of the Act except those matters specifically delegated to Community or Select Committees or to statutory officers (and on those matters, to have the right to comment);
- to recommend the procedural framework and rules for making Council decisions;
- to hold or to cause to be held by a sub-committee of itself such public hearings as may be required by the Act or as may in the Committee's judgement be desirable on any matters over which the City has jurisdiction;
- to provide to Council at each Council meeting a report of its activities since the preceding meeting;
- to monitor the organization and performance of the City and to submit recommendations to Council on any changes it sees as necessary;
- to recommend any changes in the administrative organization of the City; and
- to identify the annual and longer-range priorities for the development of the City by submitting to Council an Annual Report.

In the exercise of any of its powers, the Executive Committee need not operate in public. Meetings of the Executive Committee, in other words, may be held *in camera*.

The Review Committee recommends, however, that the Executive Committee be required to submit to Council on a regular and timely basis copies of its agendas in advance of meetings. The Executive Committee must also report to Council at least monthly on its decisions and discharge of its responsibilities. This aspect of the Committee's work must necessarily be subject to public scrutiny.

All Councillors not members of the Executive Committee would have a right of access to Executive Committee materials as permitted under Council's Access to Information By-law and any other provisions set out in the Act.

The Annual Report

The Annual Report is to record and review the activities of Council in the previous year, including a review of the implementation of Council policy by Executive Committee and a review of the fulfillment by Executive Committee of the statutory obligations of Council under the City of Winnipeg Act (see Recommendation 46.) The Report would also include a statement by the Executive Committee of its intentions, directions, priorities, and general proposals for the ensuing year(s).

The Annual Report will also advise Council on civic finances, stewardship of the environment, service delivery, and other areas of civic performance over the previous year, and it will advise Council of, and assess the merits of, all major proposals or policies affecting the development of the City and the urban environment that were considered by Executive Committee and Council during the previous year.

The Annual Report should be presented to Council for its adoption or amendment three (3) months prior to the submission of the Budget and Current Estimates.

The Budget and Current Estimates

Executive Committee will also submit to Council the City's Budget and Current Estimates. This document would outline both the revenues and expenditures for the City for the ensuing years, including breakdowns for civic departments and officers.

Delegation of Power from Council to Executive Committee

Council may not delegate, under any circumstances, those powers relating to the establishment of policy or of plans, or authorizing the collection and expenditure of money, including:

- the Annual Report;
- the Budget and Current Estimates;
- the Winnipeg City Plan;
- overall policies governing the provision of services under which some authority may be delegated to Community Committees;
- the administrative organization of the City;

- all powers on which the Act requires Executive Committee to seek Council approval; and
- all powers that must be authorized by by-law.

Powers outside of those above may be delegated to Executive Committee by City Council. Executive Committee may in turn delegate responsibilities to its members (see Recommendation 11). Council may also at its discretion authorize Executive Committee to delegate authority to the administration for purposes of carrying on the daily work of running City services and facilities. [Council may also directly delegate administrative authority to employees (see Recommendation 23).] The Executive Committee must report to Council immediately upon delegating any of its powers to the administration and at least quarterly on its own exercise of powers delegated to it by Council.

Delegation to the Executive Committee must be done by by-law. Proper notice must be given of a by-law either to delegate powers to, or rescind powers from, Executive Committee. The rules cannot be suspended to undermine the notice provisions.

Discussion

Here we provide a blueprint for an executive group from Council quite unlike the present Executive Policy Committee. The proposed Executive Committee would be the principal source of policies and programmes considered by Council. Within policy guidelines established by Council, it would monitor, oversee, and direct the implementation of policy by the civic administration on a day-to-day basis. Its control over the administration would extend to appointment and dismissal of the senior administrators of the City.

The basic structure the Committee has set out is straightforward. In summary, we recommend a strong central committee of Council, led by the Mayor, with significant powers and major responsibilities to centralize policy initiation and managerial direction. Council would continue to exercise ultimate authority, and the Executive Committee would still be accountable to Council and through Council to the electorate.

We observe that Council is unlikely under most circumstances to assert its collective authority over the Executive Committee. But the Act must allow for the unlikely just as it addresses the routine. We wish to afford Council the opportunity, therefore, to assert itself in the event that the Executive Committee does not provide the kind of leadership the majority of Council is prepared to support and to follow.

Powers

Under the section of the recommendation dealing with powers, we have described the limits of the authority of the Executive Committee to act without any further referral to Council. With respect to those powers described as the power 'to act independently,' the Council could not in the ordinary course of events interfere with the Executive Committee's decisions at all. With respect to those powers described as the power to act 'only within and subject to Council policy,' Council would have the right to amend, reject or approve the policies which it establishes to guide the exercise of the Executive Committee's authority. It could not interfere with the Executive Committee decisions once those policies have been passed, however, without resorting to the extraordinary measure of changing the membership of the Executive Committee. The Executive Committee is obliged to function within the budgetary constraints set by Council in all cases.

Although these powers to act are strong powers, the

Council has the right to change the Executive Committee by the methods set out in this Recommendation.

Responsibilities

The responsibilities set out above are major ones. Currently they are divided among the Board of Commissioners, the four Standing Committees, various other established and *ad hoc* committees, and independent boards and commissions. We believe they must be consolidated in the hands of a small, full-time committee of Council.

Additional powers and responsibilities to be exercised by the Executive Committee are the following:

- To declare a state of emergency (Sections 410 and 485 of the present Act);
- To establish, within a range established by Council, any rates or fees or charges for civic services and structures if not set out in the Annual Budget;
- To fix rates and charges on City-owned, off-street parking facilities within limits as set by Council;
- To dedicate City-owned land for streets and other purposes;
- To authorize the award of tenders and to enter into agreements subject to Council policy;
- To lease, sell or purchase land on behalf of the City within the policy of and maximum limits set by Council;
- To negotiate all inter-governmental agreements and to submit to Council for approval all such agreements, other than those concerning matters that Council has specifically delegated to the Executive Committee;
- To prepare in consultation with the Presiding Officer the agendas for Council's meetings (providing for the right of Council to amend them, the right of any Councillor to submit motions, the right of any resident to present petitions, and other procedural guarantees); and
- To recommend terms and conditions of collective agreements to Council.

Mr. MacDonald does not support the recommendation that the Executive Committee be delegated the right to set any rates or fees or charges for civic services, or to lease, sell, or purchase land on behalf of the City, even within limits and policy guidelines set by Council.

He reasons as follows: The authority to fix rates, fees, or charges for civic services is normally established by the Council when approving the City's current budget. The budget, having been approved by Council, should not be altered except by Council, the right to levy fees being in all respects the same class of responsibility as the right to levy taxes, and therefore not a power which Council can or should be allowed to delegate. Land is one of the City's most valuable and enduring assets. Its acquisition and disposal must be firmly controlled by Council, although the terms under which it is to be acquired or disposed of should be the subject of an Executive Committee recommendation to Council.

Composition of the Executive Committee

The Committee deliberated at considerable length whether the Act should in any way structure or restrict the Mayor's nominations of members of the Executive Committee. The most obvious possibility was to require the Mayor to select one Councillor from each of the six Community Committees.

We rejected this and other similar options because such a restriction will compromise our fundamental principle of accountability. The Mayor as leader of Council must have the ability and responsibility to choose his or her team. Many, perhaps most, Mayors will seek a geographical

balance within the Executive Committee for political and/or policy reasons. But other Mayors may have other criteria for selection, and should be completely free to nominate those who they consider to be best for the job, consistent with their positions on the issues, compatible with their working styles, or for any other reasons.

This unrestricted nominating power is important to make the Mayor clearly and completely responsible for the membership and actions of Executive Committee. Only in the rare case where Council overwhelmingly forces the Mayor to accept someone not of his or her choosing will that accountability be blurred. In such an event, it will clearly be seen to have been a decision of Council, not the Mayor.

Mr. MacDonald dissents from this position. He agrees with the proposed method of selecting the Executive Committee and with the proposed delegation by the Act and by Council of significant authority to that Committee. But he believes the added requirement should be included that the nominees must include, and the Council must select, at least one member from each Community Committee. Only in the unlikely event that all four members of a Community Committee refused to serve on the Executive Committee could this requirement be lifted. The same requirement would apply to any replacement, that is, a vacancy on the Committee would have to be filled by a member from the same Community Committee as the previous member.

He reasons that since the prime responsibility of the Executive Committee is to generate political leadership and policy formulation for the entire City, it is quite essential that all sectors of the City have equal representation on the Committee. This is particularly important to the older areas of the City, which tend to have less political influence, and have, in the past, been frequently denied a role in the City's decision-making processes.

It is also important, in Mr. MacDonald's view, that each Community Committee have a direct linkage with the Executive Committee, so that positions taken in the Community Committees will have an interpreter on the Executive Committee and vice versa.

Tenure of the Executive Committee

The Committee also proposes that changing the membership of the Executive Committee should not be a simple matter. There are political risks inherent in our proposed methods for those who would attempt to change the Committee's membership, and attempts are not likely to be frequent occurrences. The resulting stability will support three desirable ends.

First, we note that political deal-making is a characteristic of City Council that tends to make the system less accountable and the leadership less visible than we think is healthy. (The previous Committee of Review also noted that some of the political compromises fostered by our current political organization are very expensive for the taxpayers.)

One Councillor has referred to the "shifting coalitions of loose fish" that obscure leadership and responsibility on Council. We think that the transparency of Council operation and the visibility of political leadership will be enhanced by building stability into the operation of the Executive Committee. Everyone who seeks to praise or decry any particular decision or action of the City Government will be able to identify precisely the role of the Executive Committee in that decision or action.

Second, we think that there is ample evidence that the existing political system characterized by parochial political behaviour, intense identification with ward issues, and limited attention to city-wide issues, can be partially modified through the institution of an Executive Committee structure that promotes collegial behaviour and concen-

tration on city policy. Councillors who are elevated to the Executive Committee must enjoy some security of tenure as well as the initial confidence of their peers if they are to break free of the pressures of ward politics. We predict that this behaviour will be reinforced by the need for a large measure of Executive Committee solidarity.

Third, the proposed Executive Committee will require the full-time participation of its members. A full-time commitment will demand changes in the lifestyles and occupations of the Councillors elected to the Executive Committee, and we feel that it is fair to offer some stability and continuity between elections in exchange for that commitment.

At the same time both Council, to a limited degree, and the Mayor to a greater degree, must have the ability to remove Executive Committee members who have lost the confidence of either. If Council is merely divided on the issue (fewer than 60 per cent of Councillors wanting to retain or remove a member), then the Mayor's satisfaction or dissatisfaction with that member will be paramount. If 60 per cent of Council clearly disagrees with the Mayor's request, or agrees with a Councillor's motion to remove a member, then Council's satisfaction or dissatisfaction will be paramount.

Checks and Balances

With this system the Committee believes that the responsibility of both the Mayor and the Councillors for the way the City is governed will be clear. Each has certain powers to mould City government the way it wants. If both agree, as is most probable, then the Executive Committee will represent both the Mayor and the majority of Council. If they disagree, then each must take a clear stand which can be understood by the voters and dealt with in the proper forum—the ballot box.

We also provide protection against any attempt to vest Executive Committee with powers in a quick and arbitrary way by requiring proper notice of delegation, and by restricting the kind of delegation to those matters not requiring passage of a by-law. Thus we reserve for discussion on the floor of Council those matters weighty enough to require a by-law.

It should be noted that the current Act requires many trivial matters to be decided by by-law. We would reduce these (see Recommendation 64).

Some of the checks and balances we suggest to the potential power of the Mayor and Executive Committee are the following:

(a) Council may reject the Mayor's nominations for membership to the Executive Committee and may remove any member of the Committee (other than the Mayor, its Chair).

(b) The Presiding Officer (see Recommendation 10) is empowered to provide resources to any organized group of Councillors and to establish "all-faction" Select Committees upon petition.

(c) A new City Ombudsman (see Recommendation 59) who reports directly to Council.

(d) Residents of the City are provided with easier and less expensive access to a Municipal Tribunal (see Recommendation 61) that can adjudicate on the rights of individuals under the Act.

The Executive Committee plays an essential role under the suggested structure. It will function best as a co-ordinated team enjoying the confidence of Council and to that end we have placed the responsibility for its composition primarily on the Mayor but also on the Council. Only in cases of very major disagreement will Council be able to assert its opinion as to membership on the Executive Committee on the Mayor, but only if the person is ultimately acceptable to the Mayor, since the Mayor

alone can nominate members of the Committee.

Council will continue to have ultimate authority over the affairs of the City of Winnipeg. It will exercise its authority through approval, amendments to, or rejection of, the proposals put to it by the Mayor and Executive Committee. In addition, there will be regularly scheduled occasions such as question periods, debate on reports of the Executive Committee, the Annual Report, the Budget and Current Estimates, and other events, when the performance of the Committee will be assessed and debated. These are public occasions likely to be widely covered by the media.

Mr. MacDonald dissents from the Committee's recommendations that the Executive Committee could meet in camera and that Councillors who are not members of the Executive Committee could be denied rights of access to Executive Committee materials.

He recommends instead that all meetings of the Executive Committee be open meetings, with the right to go in camera in exceptional circumstances, that all Executive Committee material be available to all members of Council, and that any member of Council be free to attend meetings of the Executive Committee as an observer or to appear before it as a delegation on any matter appearing on its agenda.

Mr. MacDonald argues that while Cabinet-style secrecy and solidarity are convenient and expeditious methods of reaching decisions, such features of senior governments should not and cannot be effectively absorbed into the municipal system. Both secrecy and solidarity require a means of enforcement which will not be available at the City Hall. The Executive Committee will have to reach decisions by way of majority vote, and while it is to be hoped that it will present a unanimous front on major issues, Mr. MacDonald does not believe this will happen on all occasions.

Openness is a long-standing feature of municipal government and is an attribute well worth preserving, even at the risk of giving the system at times an untidy appearance.

Mr. MacDonald does not subscribe to the proposal to deny Councillors access to Executive Committee materials and require them to initiate proceedings under an Access to Information By-law. Such a provision would generate an attitude of alienation and suspicion on the part of members of Council who were not members of the Committee and they would receive reports from the Committee in that frame of mind. The Committee's ability to play the effective role chartered for it would be seriously impaired.

In any event, Mr. MacDonald asserts the proposed restriction would have no practical application as members of the Executive Committee could not be effectively prevented from disclosing Committee deliberations to sympathetic fellow Councillors.

6.1 CITY COUNCIL AND MAYOR

Recommendation 9 A Strong Mayor

The Review Committee recommends that the Act set out the following rights and duties of the Mayor of Winnipeg:

The Mayor will nominate all members of Executive Committee and may remove Executive Committee members, subject to limited Council approval (see Recommendation 8). The Mayor will chair meetings of Executive Committee, will set its agenda, and will determine who will speak on its behalf before Council.

The Mayor has the right to speak first and last on the presentation of any by-law proposed by Executive

Committee, but this right may not be used to close debate prematurely.

The Mayor appoints, with the approval of Executive Committee, all members of the subcommittees of Executive Committee.

The Mayor will continue to be a full-time person, provided with an office, budget, and staff. The Mayor is the chief signing officer for the City. The Mayor represents the City and Council at all ceremonial engagements or determines who will do so in his/her absence.

The Mayor will appoint a Deputy Mayor from among the members of the Executive Committee. The Deputy Mayor will exercise all the duties and rights of the Mayor in his/her absence.

Discussion

The Mayor's most significant powers will be exercised through his or her role as Chair of Executive Committee.

The Mayor will also have the exclusive power to nominate members to the Executive Committee. Coming to the post with the support of the majority of Winnipeg voters, the Mayor must also receive and retain the continued support of the majority of Councillors, who themselves also in theory have the collective support of the majority of voters in most of the individual wards in the city.

The Review Committee's case for leadership on City Council has been made earlier and will not be repeated here. We wish to emphasize, however, that while we consider that leadership most legitimately and properly should come from the Mayor, it will clearly be that person's choice whether to exercise it. If it is not, it will not be for lack of the tools of power or of clearly mandated responsibilities.

The people of Winnipeg typically identify the Mayor as the one civic politician in charge. Media attention is focussed on the Mayor as the official who speaks for the city. Under our proposal, this attention will be heightened, expectations will be further raised, and identification as the City's political leader will be even more sharply focussed on the Mayor. Most important, however, is our belief that, under our proposal, for the first time the Mayor's image will finally be consistent with the realities of his or her statutory authority and political powers.

This is by no means to say that the Mayor will be too powerful or be able to exercise near-dictatorial control. Many of those we spoke to during our hearings were concerned about this possibility in a strong Mayor system. They maintained that the Mayor already has enough power and if he really wanted to, he could provide all the leadership necessary with the tools he now possesses. They especially pointed to the Mayor's full-time advantages of publicity, prestige, popularity, and personality.

But these important assets, to be truly effective, require the essential underpinnings of the authority of the office and the political leverage inherent in specific institutional arrangements. These we have tried to provide to the Mayor, largely through his or her role as Chair of the Executive Committee.

The Mayor, in our concept, is not a municipal prime minister. Winnipeg Council politics is not a parliamentary politics of disciplined parties. As such, the Mayor requires some specific tools and prerogatives at his or her disposal, so that he or she has the opportunity to lead, to forge a working majority on Council, and to select a collegial team to manage the city, both politically and administratively.

The change from a weak Mayor to a strong Mayor-Executive Committee system, therefore, does not involve

any attempt to sneak the parliamentary system through the back door of City Hall. In fact, the Review Committee rejects that as a practical possibility; some members consider it even undesirable at the municipal level. Should factions or groupings or parties develop municipally, they will emerge when it appears prudent and important for them to do so. They will not evolve simply because strong leadership powers have been built into the City's political system through statutory change.

A change to a strong Mayor system in Winnipeg should also not be confused with the boss system of old Chicago or even Montreal. The system here lacks the extensive reward and patronage system that served to bind those local politicians together. A stronger Winnipeg Mayor, however, must be seen within the context of Winnipeg's progressive-reform tradition.

The change we propose involves a merger of three major roles for the Mayor: ceremonial figure, chief executive, and legislative leader. To serve in these three capacities we suggest retaining most of the prerogatives of the office, with three exceptions: the Mayor will no longer hold a veto over Council decisions; the Mayor will no longer have a second, tie-breaking vote at Council; the Mayor will no longer occupy the Chair at Council meetings.

These three proposals reflect our determination to enhance the Mayor's executive and leadership capacities. The suspensive veto which the Act now provides has to our knowledge never been used and, even if it were useful, it would be used rarely. We feel that our recommended structure will so alter the balance of initiative and caution as to eliminate the need for a veto entirely—if it were retained it would be an invitation to an obstructionist mayor, at odds with a majority of Council, to stop the City's business entirely. We would rather that the Mayor be committed to negotiation, compromise and consensus.

For similar reasons we argue that the Mayor's present power to decide issues on which Council is evenly divided, by casting a second vote is unnecessary.

The Act must be amended to deal with the unlikely event of a tie vote by requiring that a tie means the defeat of a motion, and that when a motion is lost because of a tie vote it may be presented again at any time. We suggest that this apparent reduction in the Mayor's power will have the paradoxical effect of increasing the chance of accommodation and compromise.

Finally the Mayor should sit on the floor of Council as a legislative leader rather than maintain the pretense of neutrality implied by occupation of the Chair.

6.1 CITY COUNCIL AND MAYOR

Recommendation 10 *Presiding Officer*

The Review Committee recommends the creation of a new Council position known as the Presiding Officer of City Council.

The Presiding Officer would be selected by Council from among those Councillors who are not members of the Executive Committee. Council selection will be by secret preferential ballot at the first meeting of Council following an election or when the office becomes vacant during the term of a Council.

To be elected as Presiding Officer, a Councillor must receive a total of votes equal to two-thirds or more of Council present and voting. The Presiding Officer may be removed from office by a majority of Council present and voting.

The Presiding Officer will chair Council meetings and set its agendas in consultation with the Mayor

as Chair of Executive Committee. The Presiding Officer's duties would also include: maintaining order and decorum at all Council meetings (extending to the power to expel Councillors from meetings); deciding questions of order; determining seating arrangements of Council; and being able at his/her discretion or on the petition of any member of Council to call emergency or special meetings of Council.

The Presiding Officer may vote on any question before Council, but will not have a second vote. Should the Presiding Officer wish to participate in Council debate, he or she will select another Councillor not a member of the Executive Committee to assume the chair for the duration of that debate.

The Presiding Officer would have authority to recognize, and provide appropriate resources to, any group of six or more Councillors who wish to function as an officially recognized grouping within Council. "Appropriate resources" would include meeting and office space and a budget for secretarial support. The Presiding Officer would have the right to withdraw his or her recognition (and thus the resources) upon one month's notice and only for reasons clearly stated in the notice. The group would have a right to appeal the Presiding Officer's decision to Council within that month.

The Presiding Officer would have the duty, upon the request either of Council or of six or more Councillors, to establish a Select Committee of Council, to determine the individuals named to that Committee, and to determine its terms of reference and what resources would be available to the Select Committee.

Discussion

This recommendation—to create a Presiding Officer of Council, rather than to continue the Mayor as Chairperson of Council—is directly related to our other recommendations proposing new powers and roles for the Mayor (see Recommendation 9). To balance the leadership and initiative that we recommend be vested in the office of Mayor, it is crucial that Council be chaired by a relatively neutral person who has the confidence of most City Councillors. It is particularly important that the Presiding Officer is supported by the various minority groups within Council, since his or her decisions are critical for maintaining the rights of those minorities and their ability to mount credible opposition to the majority.

The preferential ballot and especially the two-thirds majority election requirement makes certain that the person selected will enjoy such a high level of confidence. Nominations will have to continue until all factions can generally agree on one person. The Committee recommends that the ballot be secret in order to minimize the deal-making which is inherent in current voting for annual appointments to Council posts. Similarly, should the Presiding Officer perform in such a way as to lose the confidence of a simple majority of Council members, she or he would have to be replaced by a person more acceptable to majority and minority groupings.

The Presiding Officer's role has the potential to evolve into an influential and respected position within the Municipal government structure—a position that carries with it clear responsibilities to ensure that Council carries out its duties in a fair, open, and orderly fashion. In this respect, the Presiding Officer will serve as a check on any group or faction on Council that may attempt to disrupt the orderly functioning of civic government.

It will be noted that we have provided encouragement for the organization of like-minded Councillors who wish to be officially recognized and provided with resources at the discretion of the Presiding Officer. We believe it is useful to facilitate the formation of such groups of Councillors from among those not serving on the Executive Committee, who can present alternative policy positions to Council and provide critical commentary on the proposals of the Executive Committee. To perform these functions effectively, such groups of Councillors need an additional base of information, research, analytical, and secretarial support. The Presiding Officer is the crucial individual charged with ensuring that the resources of the Executive Committee are at least partially balanced by resources available to opposing groups on Council.

In addition, the Presiding Officer is the person who decides the composition, terms of reference, and resources available to Select Committees. We believe it is important that Select Committees be available either to a group of dissenting Councillors (six or more) or to Council itself (upon resolution) in order to investigate in depth issues of importance to the group.

Mr. MacDonald dissents in part from this recommendation. He agrees with the proposal that meetings of Council be chaired by a Councillor other than the Mayor—a Presiding Officer—to be selected by Council.

The principal usefulness of this recommendation, as he sees it, is to free the Mayor from the largely routine function of chairing Council meetings and enabling him to participate actively in Council debates, and as Chair of the proposed Executive Committee, to present that Committee's report to Council and to support and defend the Committee's recommendations.

Mr. MacDonald goes on to say, however, that while it is essential to the Presiding Officer's role that she or he maintain a posture of impartiality in chairing Council meetings, he objects to the proposal to invest him or her with discretionary political authority. This he views as being unnecessary, encroaching on prerogatives which should remain with Council, and certain to destroy the neutrality which the majority of the Committee members see as essential to his function.

Mr. MacDonald considers that the Presiding Officer's role as chairman of Council meetings requires that she or he maintain a posture of neutrality as between the conflicting groups on Council. He feels that this impartiality will be compromised by the proposal to vest in the Presiding Officer discretionary authority to provide, or to deny, resources to dissident groups of Councillors. He therefore dissents from this aspect of the Committee's recommendation only.

6.1 CITY COUNCIL AND MAYOR

Recommendation 11 *Types and Powers of Council Committees*

The Review Committee recommends that the Act allow the formation of subcommittees of Executive Committee and of Select Committees of Council with specific and limited terms of reference. All references to Standing Committees in The City of Winnipeg Act should be deleted, however.

The Executive Committee would be empowered to create subcommittees to be comprised of members of Council. The only restriction on the composition of such a subcommittee should be that the Chair must be a member of the Executive Committee. No subcommittee could have any powers delegated to it by the Executive Committee. Nor would any subcommittee have any authority other than to investigate issues, request reports from the admin-

istration, conduct public hearings if necessary, and pursue other activities as necessary to fulfill its mandate. All subcommittees would submit their findings and recommendations only to the Executive Committee. The Mayor, as Chair of Executive Committee, will nominate all subcommittee members for the approval of the Executive Committee.

Either the Presiding Officer, on the petition of six or more members of Council, or the Council on its own motion, may create Select Committees of Council. The membership of Select Committees would be decided by the Presiding Officer. A Select Committee can be formed only for a specified time period, not to exceed one year but renewable for additional periods. Its terms of reference, authorized by the Presiding Officer, should be limited in scope and purpose.

Council may not delegate any of its powers to any committee other than the Executive Committee, or Community Committees. (Specific limits to Council power to delegate are found with respect to the Executive Committee in Recommendation 8 and with respect to Community Committees in Recommendation 14 and 15.)

Discussion

Delegation of authority is a major question in civic politics. The original Unicity Act allowed for a great deal of delegation of authority by Council to the Standing Committees and the Community Committees, as well as to civic administrators. This power to delegate was changed and limited somewhat in the 1977 amendments.

The Review Committee would allow for the internal delegation of some Executive Committee responsibilities to individual members of the Committee (see Recommendation 8). If the Mayor and Executive Committee chose this pattern of assigning responsibility, it might permit the evolution of a 'ministerial' form of administration, with individual Executive Committee members taking on ministerial-type roles in overseeing and directing the administration of discrete government activities. This form of delegation would not permit, however, administration by committees other than Executive Committee.

Mr. MacDonald dissents from this part of the Committee's proposal. He considers the concept of a ministerial system of administration as being neither feasible nor desirable. He argues that the Executive Committee must act collectively, or at least by majority vote, and that the concept of vesting discretionary or ministerial authority in individual Councillors is quite contrary to the traditions of municipal government. It would thoroughly compromise the already somewhat confused line between policy-making, which is for the Councillors and policy implementation, which is for the civic administration.

The majority responds that it wishes to allow a potential for a ministerial system, but not to mandate it. Such a system could only work if the Executive Committee acts so collectively as to have the equivalent of Cabinet solidarity.

It is the Review Committee's view that Standing Committees impede the ability of Council to make important decisions. They create confusion in the public mind as to authority and responsibility, both for action and inaction. They confuse the reporting lines and accountability relationships between the administration and Council. Despite (or perhaps because of) the requirement that Standing Committee reports go through Executive Policy Committee before they reach the floor of Council, Executive Policy Committee often serves merely as a paper transmitter and agenda manager.

Land-use planning and other policy-making areas, such as transportation and social services, for example, cannot be separated. Planning, financial, operational and environmental concerns are too closely related to permit relatively independent or parallel policy making structures. This tends to happen under the existing Standing Committee arrangements.

Many major issues may now be debated by one Community Committee, two Standing Committees, and Executive Policy Committee, before reaching the floor of Council. Since committee meetings are usually public, the media report on each debate. The public is confused, and rightly so, about the importance of each debate and its significance for the eventual outcome of an issue.

The Committee believes that there must be clarity in decision-making and in responsibility for decision-making. We take seriously the contention of many persons at our hearings that a smaller Council is necessary because a small group of people can make hard and intelligent decisions in a more efficient way. At the same time the need for a large Council to provide effective community representation is very clear and equally important to us.

The majority of the Committee believes that the solution to this dilemma is to combine a strong Executive Committee with a prohibition on the creation of competitive Standing Committees by opposing any delegation of authority by Council to any committees other than the Executive Committee and the Community Committees. Thus local issues can be dealt with locally, and city-wide issues can be initially addressed by a small central group answerable to Council. Select Committees could be created both by Council and on the petition of a minority of Councillors. (We discuss this more fully in Recommendation 10.) A Select Committee of Council would allow issues to be explored and aired fully outside the bureaucratic milieu but would lack any statutory or delegated authority.

Mr. Thomas does not support the majority view that a statutory prohibition on standing committees must be introduced as the way to solve the problem of convoluted, protracted, and obscure decision-making processes within Council. The problems caused by the use of standing committees, particularly the 'bouncing' of issues back and forth between Council, EPC and the standing committees, could be substantially alleviated by changes to Council's own procedure by-law, in his opinion.

Furthermore, Mr. Thomas contends that the majority view does not recognize sufficiently the advantages of standing committees. Such bodies provide individual Councillors with an opportunity to acquire greater knowledge of the various policy fields within the jurisdiction of City Council. Specialization among Councillors would receive greater encouragement from a standing committee system than from ad hoc select committees. Select committees would be created periodically for a limited time period, would cover varying topics, and would not involve permanent membership for the life of a Council which should be the better arrangement for standing committees.

An additional concern is that the structure proposed by the Review Committee may give the appearance of creating an 'inside group' in the form of the Mayor and the Executive Committee. Granting the Executive Committee the right to establish subcommittees, to which it might appoint Councillors from outside the executive group, will not reassure many Councillors that they will be given opportunities to have meaningful input into the development of city-wide policies.

A number of Councillors who spoke to the Review Committee indicated that service on standing committees was one of the more satisfying parts of their job. Not all Councillors share this opinion of committee work, of course. The important point is that without standing

committees, the proposed system may underutilize the knowledge and talent of those Councillors, who for political or personal reasons (such as a reluctance or inability to make a full-time commitment to public life) will not serve on the Executive Committee.

Mr. Thomas believes that standing committees, which come into existence automatically at the start of each new Council, would provide another forum in which accountability of the Executive Committee could be enforced on a more continuous basis. Such committees would remain advisory, rather than decision-making bodies, but they would provide Councillors with ongoing access to the expertise within the civic administration.

Finally, he cautions, we should not judge democratic political structures on grounds of efficiency alone. The overlap and repetition involved with the current standing committee system may perform valuable latent functions of highlighting the implications of proposals from the different perspectives applied by the various bodies which deal with them. Repeated examinations by a standing committee, the Executive Policy Committee and by Council allow for public opinion to crystallize around an issue. It may also ensure that there will also be wider political support for the eventual decisions approved by Council.

In summary, Mr. Thomas acknowledges that some streamlining of Council procedures is probably desirable, but contends that to eliminate standing committees would be an over-reaction to what is in large measure the "messiness" of democratic decision-making. He would prefer to leave it up to Council to decide the continuing role of standing committees. Select committees could supplement the role of the Standing Committees by dealing with temporary issues outside the jurisdiction of the latter.

The majority responds by saying that Select Committees and subcommittees of the Executive Committee and Community Committees in this more powerful role can perform the valuable functions that Mr. Thomas argues the Standing Committees perform, but without the confusion as to responsibilities and roles.

6.1 CITY COUNCIL AND MAYOR

Recommendation 12 *Clarified Roles and Authority of Civic Boards, Commissions, Advisory Committees, Authorities and Corporations*

The Review Committee recommends that Council re-examine and clarify the roles and authority of its various civic boards, commissions, advisory committees, authorities and corporations. The Committee recommends that the following principles be applied in Council's re-examination:

- Public services which are the responsibility of City Council under *The City of Winnipeg Act* and which are delivered by employees of the City should remain under the direct control of City Council. Neither administrative control over civic employees nor budgetary discretion should be delegated in these areas to boards or commissions.
- Civic commissions, authorities and corporations that perform a special statutory function (as distinct from the routine delivery of a public service) may be established at the discretion of Council. In general, such bodies should not have members of Council on their boards.
- Council may also establish without limitation

any advisory committees or boards to seek citizen advice or enlist expertise in specialized fields of civic responsibility. Such bodies should not contain any members of Council.

Relevant sections of *The City of Winnipeg Act*, by-laws of the City, or special Acts of the Legislature, which do not conform to these principles, should be amended or repealed.

Applying these general principles, the Committee recommends below specific alterations in the existence, mandates and membership of selected boards, commissions, advisory committees, authorities, and corporations, including:

- The Winnipeg Police Commission,
- The Municipal Hospital Commission,
- The Winnipeg Parking Authority,
- The Winnipeg Rivers and Streams Committee,
- The Library Board,
- The Historical Buildings Committee,
- The Civic Charities Endorsement Bureau,
- The Winnipeg Business Development Corporation,
- The Winnipeg Enterprises Corporation,
- The Winnipeg Convention Centre Corporation, and
- The Winnipeg Housing Rehabilitation Corporation.

The Committee further recommends that, in considering our proposals for these bodies, and in conducting our suggested review, Council pay particular attention to the application of a number of devices to ensure accountability to Council, including an examination of their policy mandates, annual budget requests, annual reports, evaluations, and memberships.

With particular respect to advisory committees, the Committee also recommends a more open process for the nomination and appointment of resident members. This would involve public advertising to invite nominations, information on the qualifications and experience of nominees, and public announcement of and information on appointees.

Discussion

In this section the Committee discusses, initially in general terms, the nature and role of various special purpose bodies within the City of Winnipeg's political system. Our concern is the overall effect of the use of such bodies upon the maintenance of strong and politically accountable City government. Such special purpose bodies involve the transfer of decision-making responsibilities to administrative units which lie outside the regular departments of City government. Whatever powers are delegated to such bodies can theoretically be withdrawn at any time. In practice, however, there may be a loss of political direction and control by City Council, and a decline in the overall level of accountability within the system of City government.

The Review Committee emphasizes that the political accountability of the elected Council must be clearly maintained and should not be diffused by delegating authority to bodies with varying degrees of independence from Council.

Three concerns were identified by the Committee. First, to what extent is the decision-making authority of Council diminished by the use of such bodies? Has the trend been to delegate more or less authority to special purpose

bodies? Second, what is the effect on Council's financial management and accountability of the removal of certain financial and personnel matters from the direct control of the Board of Commissioners, Executive Policy Committee and Council as a whole? Third, what is the effect of such bodies on the relationships between Council and its electorate, and between Council and the Provincial Government?

In addressing these concerns, the first characteristic to be noted is the diversity among the various boards, commissions and corporations within the City's jurisdiction. Such diversity is a reason for caution in generalizing about their impact upon civic government. Special purpose bodies perform a variety of functions. Some perform licensing and fee setting functions. Others operate what are essentially developmental or business operations. Still others are the vehicles for the involvement of two or more orders of government in municipal projects. Finally, others are used as advisory bodies to City Hall and as a way to involve citizens in city government.

In designing a sound accountability framework for such bodies, it is necessary to take into account their various purposes, the extent to which they involve broad policy concerns as distinct from more routine administrative matters, and the extent to which they rely upon public funding in their operations.

They should be reviewed on a case-by-case basis to determine the appropriate accountability arrangement for each. The Committee has conducted a limited exercise of this kind for purposes of its own recommendations. We would recommend that Council, perhaps through the use of a Select Committee, undertake a similar and more detailed review. Since such bodies have tended to appear without any consistent rationale, we believe that a review by Council could lead to more informed and objective decisions about the need for maintaining many of the City's boards and commissions.

No matter how many of these bodies are retained, there must be an assurance of ultimate accountability to Council and through it to the electorate. These are, after all, public bodies. They are endowed with public policy mandates or purposes through either a by-law of City Council or an act of incorporation of the Manitoba Legislature. Their members are appointed by City Council, by the Provincial Government, or both. In most instances, they receive all or a portion of their operating funds from the city government, from the Provincial Government, or from user charges which those governments authorize them to levy. In many instances, such bodies are required to report, usually annually, to the Council or to the public in general. These features reflect the public nature of these agencies.

The Committee acknowledges that boards, commissions, and corporations can serve the useful purpose of providing a specialized service and attracting expertise which may not be available within the regular departments of city government. Advisory committees or boards represent a useful way to encourage resident involvement and independent opinion. And development corporations have proven recently to be an ingenious method of providing a development catalyst and involving the three orders of government in specialized projects.

While recognizing these virtues, we wish to register our concern that such bodies can restrict the ability of Council to determine policies. The independence they are granted can make coordination of interrelated activities within the City more difficult to accomplish. They tend to fragment and therefore to complicate the policy and administrative processes within city government. Moreover, once established, such organizations often seem to enjoy immortality, with no regular review of the original rationale for their existence.

Accountability Devices

The Review Committee suggests that in conducting the proposed review of such bodies, Council or a Select Committee should pay particular attention to a number of effective accountability devices.

The **policy mandates** of boards, commissions, or corporations should be examined to ensure that they are reasonably precise, so that Council can periodically review in a meaningful fashion their operations. Where a change in policy direction for such bodies is contemplated, we recommend that Council approve such policies, but only after consultation with or upon receipt of recommendations from the board, commission or corporation in question. Where Council does not appoint a majority of the members of an agency, such as intergovernmental bodies, it cannot dictate policies, but it should have an opportunity to debate them. Direct intervention by Council in boards which it controls without advance consultation with members would rob Council of the expertise which resides within such agencies.

The **annual budgetary process** can be an effective accountability device. It can provide Council with an opportunity to question the operations of special purpose bodies. Where appropriate, approval of the budgetary requests of such bodies should be contingent upon the production of a strategic plan, including a three to five-year forecast of revenues and expenditures for the agency. In the case of bodies which are self-financing, such plans should be submitted not for approval, but simply for the information of Council.

Periodic reviews should be a feature of Council policy towards boards and commissions. As a basic requirement, if it does not already exist, an annual report to Council should be required from all special purpose bodies. In addition, we recommend that on a regular cycle, (perhaps every five years) each special purpose body should be subject to an in-depth evaluation in respect to its objectives, functions, and organizational status as an independent body. This requirement would help to ensure that special purpose bodies do not outlive the original reasons for their creation.

The **appointment power** of Council can be a useful method of accountability. Where the Council appoints representatives to boards, such appointees should be charged with ensuring that boards pay careful attention to the City's policies, plans, and financial interests. Accordingly, such City appointees should have a duty, when appropriate, to consult with relevant City authorities and to communicate their findings to the boards on which they serve.

Advisory Committees

The Committee sees a valuable role for advisory boards to Council as one way to encourage greater resident involvement in civic affairs. In order to secure broader resident involvement, we recommend that there be a more open process for the nomination and appointment of residents to serve on advisory committees. The processes used in other cities such as Toronto and Halifax should be considered.

Shortly after each civic election, and as vacancies occur thereafter, advertisements should be placed in daily newspapers and other media and circulated where appropriate, inviting applications and nominations for resident appointments to advisory committees. All nominations made by Councillors, resident organizations or individual residents should include an indication of the nominee's willingness to serve. Both applications and nominations should include biographical note on the individual, including his or her qualifications and experience. From the list of applicants and nominees, the Executive Committee should place recommendations

before Council. Sitting in private session, perhaps as a Committee of the whole, Councillors should consider the Executive Committee's recommendations and alternative proposals, with formal approval of the final list of appointments to take place at the next meeting of Council.

In making appointments, Council should apply the criteria of interest, qualifications and experience, representation of the demographic and geographical structure of the City, and the capacity for objectivity in providing advice. Appointments should be publicly announced together with brief biographical information about those appointed. In order to secure wider participation, Council should consider limiting resident appointees to no more than two consecutive terms on any one board. A transitional period might be necessary at the outset, to avoid a complete turnover of all committee members at one time.

Membership

In the case of diverse bodies, like the Library Board (one Councillor) and the Winnipeg Enterprises Corporation (eight members of Council), provision is often made for members of Council to sit on various civic boards. The Committee has debated the merits of having Councillors serve in this capacity and has concluded on balance that generally this is not a desirable arrangement.

In favour of the arrangement is the argument that Councillors can convey Council policies, plans, and financial concerns to such bodies. When boards make decisions or recommendations, they will have a better understanding of the wider political, policy and financial context in which they are acting. Councillors who serve on boards can serve as the eyes and ears of Council in relation to such bodies. They can report to Council on matters before boards which relate to Council's policies and plans.

Several problems arise from mixed memberships (Councillors and others) on boards. Members of Council who serve on boards will be expected to represent Council's interests and these may not always correspond to the interests of the board. In such situations, the Councillor may experience a conflict of loyalties. A similar dilemma may be experienced when senior administrators are either full members or advisors to the advisors. If a board is serving in an advisory capacity to Council, truly independent advice might not be given when a Councillor or administrator is present who is seen to be the chief interpreter of what Council will accept. If boards require intelligence about the political feasibility of their proposals or see a need to lobby with Councillors to obtain acceptance, this can be accomplished by formal and informal means other than relying upon the formal channel of communication of one or more Councillors who sit as members at their meetings.

In the case of boards with actual decision-making power where Council members do not hold a clear controlling majority, the decision-making capability of Council may be compromised. For example, the agreement of the eight members of Council serving on the seventeen member board of the Winnipeg Enterprises Corporation, may not legally commit City Council, but it would make it very difficult for Council to reject or overrule such a decision where the authority of the City was involved.

Recent History and Recommendations

Prior to the advent of Metro in 1961, and in the absence of any overall authority capable of administering inter-municipal services, a number of important regional services were provided by Boards or Commissions operating under special Provincial statutes. Board members were usually municipal appointees, elected or otherwise, but with no direct accountability to the electorate. Examples were the Greater Winnipeg Water District, the Greater Winnipeg Sanitary District, the Greater

Winnipeg Transit Commission, and the Metropolitan Planning Commission.

The need to have the work of these organizations properly co-ordinated and financed and made politically accountable was one of the primary reasons for the introduction of the Metropolitan system of government, which vested direct control over these and other services in an elected Council.

The present City of Winnipeg Council appears to be moving in the direction of furthering this principle of accountability—that of bringing public services back under Council's control in cases where such control has been delegated. Thus Council has abolished the Ambulance Commission and is considering abolition of the Winnipeg Police Commission.

With the principle of Council control and accountability in mind, the Review Committee makes the following recommendations concerning the remaining civic boards and commissions.

The Winnipeg Police Commission: This Commission's principal function is hearing complaints of abuse of the municipal police power. Under a 1974 by-law, it is composed of three members of Council and two electors of the city.

The Committee recommends that the Winnipeg Police Commission be abolished, noting that its principal function has been assigned to a Provincially-appointed body which is free of any intimate association with the Police Department. Should Council decide to appoint a purely advisory commission on the municipal policing function and related matters, such a body should be comprised only of residents of the city and no members of Council.

The Municipal Hospital Commission: The Act currently requires the appointment of such a Commission, but the degree of authority to be delegated to it is a matter of Council discretion.

Under a 1972 by-law, Council has appointed such a Commission, composed of eight members, four of whom are Councillors, and has chosen to delegate wide-ranging authority over municipal hospitals to the Commission. Thus, according to the by-law, the Commission "shall manage, control and operate all hospitals owned or controlled by the City", and "all appointments to the staff shall be made by the Commission which shall have the power to engage, hire, dismiss and discipline any member of the staff", and "the Commission is hereby authorized to execute contracts on behalf of the City in connection with the maintenance, operation and control of said hospitals".

It may be that the City Council feels that it need not directly concern itself with the operation of the City's hospitals since the costs are recovered from the Manitoba Health Services Commission and are not therefore a direct charge on City taxpayers.

The Review Committee considers that such sweeping delegation of political responsibility is not in keeping with the concept of accountability and recommends that the Act be amended to abolish the Municipal Hospital Commission in its present form. Council might wish to consider an advisory board of citizens with some knowledge and concern in the area of health care. However, fiscal and administrative control should revert to the Council and its political and administrative hierarchy.

The Winnipeg Parking Authority: This Authority is established by a 1978 by-law under the permissive provisions of the City of Winnipeg Act. The Authority is composed of four Councillors, three electors and the Commissioner of Works and Operations.

The primary functions of the Authority appear to be the development of recommendations regarding rates to be charged in City-owned parking facilities and to prepare

plans and proposals for additional facilities.

The Committee notes that the by-law establishing the Authority provides that the rates to be charged in the City-owned structures are to be sufficient "to make the parking facilities self-sustaining after providing for all proper expenditures including payments in lieu of realty and business taxes and for such depreciation and debt charges as the City thinks proper". (The Committee feels obliged to point out that in the case of depreciation and debt charges, it appears that the City thinks that zero is the proper amount as no such charges appear in the statement of revenue and expense of the Authority. Consequently, the Authority's statement in the City's 1985 Estimates which show the parking facilities as earning a surplus of over \$600,000 must be regarded as an optical illusion.)

Planning and operation of publicly owned parking facilities may or may not be considered to be a proper function of civic government. Plan Winnipeg appears to take a negative view. If the City is to regard the garaging of automobiles as a civic responsibility, however, then this function should be integrated with total transportation planning and central business district redevelopment and not spun off into a special purpose body.

The Committee recommends that the Act be amended to remove the enabling provision and that the by-law creating the Parking Authority be thereby rescinded. The activities delegated to it should then be brought back under direct control of Council and co-ordinated with those of other civic departments concerned with transportation and land use planning.

The Winnipeg Rivers and Streams Committee: The function of rivers and streams protection is dealt with in section 7 of the Committee's Report. In that section, the Review Committee recommends abolition of the Winnipeg Rivers and Streams Protection Authority No. 1, transfer of its functions to City Council, and a strengthening of the City's waterway and related powers (see Recommendations 36 and 37).

Pension Boards: The City Council appoints Councillors to sit as employer representatives on a number of Pension Boards administering the various Pension Plans covering City employees. Many of these Plans were inherited from previous municipal jurisdictions. Eventually all civic employees will come under either the main civic Pension Plan or the Police Pension Plan, and all other plans will be phased out as they have had no additional members since 1972.

No change is recommended.

The Library Board of the City of Winnipeg: This Board now has no administrative authority. It is an advisory board composed of 12 resident members, two from each Community Committee, the City Librarian, and one Councillor, under terms of a 1978 by-law, as amended. The Committee considers that the Library Board could be maintained with the changes suggested below, if Council finds it useful to avail itself of resident advice on library service. Otherwise, it should be disbanded.

A recent development is of considerable concern to the Committee, however, and we feel obliged to comment here. The recent "strategic planning report" of the Library Board contains the recommendation: "That the Library Board be given authority over expenditures for materials whereby such expenditures would not be made without approval of the Library Board." This suggestion that an "advisory" group of residents, unaccountable to the electorate and not under the political direction of either Council or Community Committees, be vested with authority to spend public money is inappropriate.

Indeed, the Library Board is a clear example of the confusion of roles and functions that often afflicts civic

boards and commissions. The Board is supposed to provide advice to the Council and to the administrators of the library system. To us, this means independent advice and to obtain this we suggest earlier in this discussion some limitations that ought to be imposed on the functions and membership of such advisory boards. In summary, these limitations are that no Councillors or administrators should sit as members of advisory boards and that Councillors and administrators not be present at their meetings, except when specifically requested to attend by the boards. If Council values the advice of resident volunteers, it will want that advice to be given without the constraints explicitly or implicitly imposed by elected or appointed officials of the City.

The Historical Buildings Committee: Established by by-law of the City Council in 1977, it is composed mainly of knowledgeable citizens and government representatives. Two members of City Council are also members. The Committee functions in an advisory capacity, making reports and recommendations to the Committee on Environment on matters relating to the preservation and protection of buildings of architectural and historical interest.

As a strictly advisory body, this Committee should have no Councillors among its membership; it should also report directly to City Council. The Review Committee suggests that Council adopt these changes.

The Historic Winnipeg Advisory Committee: Established by by-law of the City Council in 1978, it is a citizen body whose function it is to advise the City on matters related to the Historic Winnipeg Restoration Area.

No change is recommended.

The Civic Charities Endorsement Bureau: The Bureau, established by a 1973 by-law, consists of 13 citizen members (two from each community and one from the Better Business Bureau) and one non-voting Councillor. The duties of the Bureau are "to examine into the character and bona fides of all charitable concerns seeking aid from the City or its residents, and to issue certificates of endorsement to such concerns as it approves."

The Review Committee recommends that the Bureau be made strictly an advisory body reporting to City Council and that no Councillors be members of it. It should not be given the responsibility to issue certificates of endorsement, a responsibility only to be exercised by elected representatives.

The Winnipeg Business Development Corporation: This is a joint venture between the City of Winnipeg and the Winnipeg Chamber of Commerce having as its purpose the promotion of commercial and industrial activity in the City and the attraction of new business enterprises. Under the terms of a 1978 agreement, two members of City Council are members, one of whom serves on the Executive Committee.

It is difficult to measure the effectiveness of local promotion as a means of persuading businesses to locate in one place or another. Usually these decisions will be made on the basis of hard-nosed economic considerations, or in some cases on the basis of financial or other inducements offered by the Federal or Provincial Governments.

Both the Province and the City go their own way in the matter of economic development, and the question naturally arises as to whether it would not serve the public interest better if they pursued a joint strategy.

The issue which will confront the City Council in several years time when their agreement with the Chamber of Commerce expires is whether or not this function could best be performed in-house by a civic department, as is the case in most other cities. There are substantial reasons for believing the in-house alternative would be best in terms of availability and integration of information regard-

ing land-use, land costs, servicing problems, future transportation facilities, and so on.

[We note that some of the facilities controlled by specially-legislated corporations are currently operated as private or non-profit businesses as required by their Acts. We maintain that it is the responsibility of Council to decide, on any given occasion, if this is appropriate or if other principles ought to apply. The Committee has considered three such corporations and makes the following recommendations.]

The Winnipeg Enterprises Corporation: Established by an Act of the Legislature in 1952 the Winnipeg Enterprises Corporation is a self-sustaining corporation responsible to City Council. Although Council appoints eight of its members to the board of directors of the corporation, the board has the authority to increase its own membership, which it exercised in September of 1985 when the membership was increased from 13 to 17. The Board can also meet in private and generally exercise the powers of a private corporation, including the power to incur debt.

This does not mean, however, that the directors of the Winnipeg Arena, Stadium and Velodrome are beyond the control of the elected Council. The statute establishing the Enterprises provides the opportunity for Council to change the Corporation's mandate and otherwise direct its operations, if it so chooses. The City is entitled to require the Corporation at any time, on thirty days notice, to convey to it all facilities and assets, funds, contracts, and undertakings of the corporation.

The Review Committee does recommend, however, that the Act creating the Winnipeg Enterprises Corporation be amended to change the membership provisions and provide for Council approval of all debt obligations. Specifically, we suggest that the members of the board be appointed by Council for three year terms but that no member of Council be eligible for appointment except that the Mayor or his nominee should be *ex officio* a member of the board.

The concept of a public corporation conducting a business for public objectives but with the advantage of operating at arms length from the political system is compromised by the presence on the board of eight City Councillors and tends to place the corporation in the position of a Committee of Council but without the constraints such a committee would face. We conclude that the objectives of a non-political, business-like operation would be more likely to be achieved if the concept of arms length were to be carried to its logical conclusion by the exclusion of members of Council with the exception of a linkage provided by the Mayor *ex officio*.

The Committee also recommends that the Corporation's board be confirmed as an operating entity of the City by requirement that all debenture debt issued by the Corporation be approved by City Council. Enterprise's debt is a contingent liability of the City and must receive Council approval.

Other mechanisms as appropriate should also be established to further secure accountability of the Corporation to City Council.

The Convention Centre Corporation: Established by an Act of the Legislature in 1972, the Convention Centre Corporation is a hybrid of municipal and provincial interests. That Act requires that four members of Council, seven other persons representing the City of Winnipeg appointed by Council, and two persons appointed by the Provincial Government (together with other members of the Corporation) shall form the board of directors. Like the Winnipeg Enterprises Corporation, the board itself has the statutory authority to add to its membership. Given that this corporation has some aspects of a partnership between the two levels of government, and functions

as a form of crown corporation, it must be recognized that it is in a different position from that of the Winnipeg Enterprises Corporation.

The Committee recommends, therefore, that the statute be amended to require Council to appoint only its own members to the board and to end the authority of the Corporation to increase its own membership. As Council appoints 11 of the 13 directors, its control of and accountability for the Corporation should be visibly confirmed. Future changes in the partnership agreement with the Province should be consistent with that principle.

The Winnipeg Housing Rehabilitation Corporation: This body was established by the City under the Corporations Act for the purpose of acquisition, improvement and rehabilitation of existing buildings for residential accommodation. There appears to be considerable scope for the activities of the Corporation, and it represents a positive beginning of an attack on a widespread housing problem in the older sectors of the City.

The Corporation's revenues are derived from rental income, rental subsidies from Canada Mortgage and Housing Corporation, and some City and Provincial grants.

The members of the Corporation, seven in number, consist of four members of Council and a representative each, as approved by the Council, from the Housing and Urban Development Association of Manitoba, the Social Planning Council, and the Manitoba Housing and Renewal Corporation.

The Committee recommends that the membership of the Corporation as based on organizational representation be rethought and that no Councillors be members of the Corporation's Board. On the other hand, if Council decides to take over non-profit housing as a direct service of the City, many of the Corporation's responsibilities should be transferred to the civic administration. The Winnipeg Housing Rehabilitation Corporation could in that event be transformed into a financial vehicle and/or an advisory committee with no Councillors as members.

6.1 CITY COUNCIL AND MAYOR

Recommendation 13 *Establishment of a Council Compensation Commission*

The Review Committee recommends that the City of Winnipeg Act require, a year prior to each civic election, that Council appoint a Council Compensation Commission composed of five members representing the community at large. The Compensation Commission may hold public hearings on the issue of Council compensation. Its report and recommendations must be available to the public. An honorarium should be paid to members of the Commission, and they should be provided with secretarial assistance.

The Review Committee recommends further that the recommendations of the first Compensation Commission, appointed immediately following the coming into force of this section of the Act (and if possible prior to the next municipal election), be mandatory.

In subsequent years, recommendations made by the Compensation Commission should be binding on City Council, unless modified by two-thirds of Council members present and voting. If Council chooses to alter the Commission's recommendations, it must do so by resolution prior to a civic election and must append a public explanation of

the reasons for such changes. In any event, the compensation package should come into effect only after the municipal election.

The Compensation Commission should have the authority to recommend on stipends, other forms of monetary compensation, and staff or other support services to be provided to the Mayor, the Deputy-Mayor, the Presiding Officer of Council, the members of the Executive Committee, and other City Councillors. No additional compensation should be provided for any other positions or duties other than for those named above. The Commission should also have the authority to recommend non-monetary benefits for Councillors such as secretarial support, research assistance, office space, word processing equipment, and a budget for printing and communication with constituents.

Discussion

During our hearings and discussions with them, City Councillors certainly did not defend their right to set their own level and types of compensation. It is a task most would gladly be rid of, since the public controversy is not worth the political price.

The current Act provisions make Councillors prime targets for editorial attacks and public anger. Because of the inevitable public controversy and their basically no-win position, Councillors in the past have been unwilling to provide themselves with the stipends and resources commensurate with their public responsibilities and obligations. Linking stipends to other jobs is inappropriate because the job of City Councillor is unique.

To defuse the controversy surrounding the issues of stipends, pensions, and the like, and to increase public awareness of the many dimensions of a Councillor's job, compensation should be reviewed at three year intervals by an independent and impartial Commission. The Commission should not look at salaries and other forms of monetary remuneration in isolation; it should also examine the facilities and staff support that should be available to Councillors. In short, the Commission should examine and recommend a total, comprehensive compensation package for members of City Council.

Mr. MacDonald registers a partial dissent to this recommendation. He agrees with the proposals re Councillors' stipends and the establishment of an independent Commission. Some mechanism is required to ensure fairness and to provide Council with objective advice in reaching a decision on a matter which can be both embarrassing and subject to political stage management.

He disagrees with the Committee's recommendation that the Commission deal with such matters as "secretarial support, research assistance, office space, word processing equipment, and a budget for printing and communications with constituents". To him, these are quite separate issues from that of Councillor stipends.

He argues that the question of resources to be allocated to the Mayor and Councillors is one which Council is quite capable of determining and which it should retain the responsibility to determine, particularly since it involves substantial cost implications. The matter of staff resources, research, and the rest. (presumably in addition to what is now available in the civic administration), creates the prospect of a layer of administrative personnel separate from the regular civic staff, developing in due course into a competitive bureaucracy.

The majority points out that in many major Canadian cities, municipal councillors have staff and other resources. The Committee recommends that the report of the first

Council Compensation Commission be binding upon Council to ensure that the pay and support to all Councillors and the Mayor is upgraded in an appropriate manner. In subsequent years, while acknowledging that Council will normally accept the recommendations of the Commission, but consistent with the principle of representative accountability, we recommend that Councillors be free to modify the compensation package proposed by the Commission but be required to report with reasons to the public.

The Review Committee is convinced that the scope and nature of the duties of a City Councillor deserve to be recognized in a more generous provision of monetary and non-monetary resources. Since the Committee envisages the Mayor, Deputy Mayor, and Executive Committee members working full-time, this fact should especially be reflected in the compensation package provided to those individuals. Special consideration should also be given to the remuneration given the the Presiding Officer.

The Committee also wants to make it clear that, in our view, no additional compensation should be provided for any other positions or duties other than for those named above. In short, Councillors who sit as members or chairpersons of Council-established boards, commissions, or corporations; Select Committees of Council; Executive Committee sub-committees; or any other organization as a member of Council should not receive any extra stipend. Such duties should be considered as normal parts of the job of Councillor.

Finally, the Review Committee wishes to acknowledge the many individuals and groups who made submissions to us on the pension issue. The Committee will not comment explicitly on Council's decision to approve a generous pension plan for former Councillors, other than to say that we believe the more important issue is that of adequate compensation for active Councillors, not retired ones. In our view, the recommendation of a five-person independent Commission will be a superior and more comprehensive way of handling the entire compensation issue, not only pensions.

6.2 COMMUNITY COMMITTEES AND WARDS

Recommendation 14 *Increased Planning and Approval Powers for Community Committees*

In section 7, the Review Committee recommends expanded planning and approval powers for Community Committees. They are here grouped together and summarized, with some additional recommendations:

1. Local Plans

Community Committees should be empowered to initiate, prepare, and approve Local Plans by resolution, subject to Executive Committee review and possible amendment by City Council (see Recommendation 27).

2. Zoning Change Approvals

For any area in which a Local Plan is in force and effect, the Community Committee should be empowered to make final and binding decisions on applications to amend the zoning by-law (exclusive of text amendments), subject only to limited review by Executive Committee and the ultimate override power of Council (see Recommendation 30).

Executive Committee review of the public hearing process and decisions of the Community Committee should be based only on four grounds specifically spelled out and discussed in Recommendation 31. After review, Executive Committee would decide on the basis of its findings if a new hearing is required and whether the Community Committee or the Executive Committee (or its designated subcommittee) would conduct the new hearing (see Recommendation 32).

3. Initiation of Zoning Amendments

In areas for which Local Plans have been approved and are in force and effect, Community Committees should be empowered to initiate amendments to the zoning by-law. The public hearing provisions of the Act would apply. Executive Committee should review the recommendations of the Community Committee, and Council might ultimately exercise its power to override, as described in item 2 above.

4. Zoning Variance and Conditional Use Approvals

For all lands within a community, except those for which Council has adopted a Special Area Plan (see Recommendation 26), Community Committees should be empowered to issue final variance and conditional use orders, after conducting the required hearing. The decision of the Community Committee would be binding, subject only to review by Executive Committee. An order to rehear would be issued by Executive Committee only on grounds of violation of due process, of conflict with Council policy, and/or a municipal by-law.

Discussion

The majority of the Review Committee is agreed that Community Committees should play the key role in community and neighbourhood planning matters. We have made more detailed related recommendations later in this Report for substantial amendments to the planning requirements of the Act (see Recommendations 24 to 34). The terms used here—City Plan, Special Area Plans, and Local Plans—are defined in those recommendations.

The Community Committees have a vital role to play in the development and subsequent implementation of Local Plans, in interpreting them to the residents, and seeing that the views of residents are properly considered and reflected in plans at all levels. If they cannot or will not perform those basic functions, the Community Committees may as well be disbanded.

We believe that Community Committees can and will perform these functions, and extend them in creative ways, if offered adequate incentives. Local Councillors want to serve their constituents; they want the political credit for doing their job well. They must have tools appropriate to the job, so that their constituents can hold them accountable.

City Council itself, in its 1980 request for a new Part XX, suggested a specific provision for Council delegation to Community Committees of powers over "variance, zoning, subdivision, and conditional use matters deemed to be of a local community nature." While not detailed, this request indicates strong support from Council for the principle of decentralization of planning responsibilities.

It is important to emphasize the significance of the power exercised by local Councillors under the scheme described above. Within the context of an approved Local Plan, residents who have a vital interest in the outcome of an

application for a zoning variation or for an amendment to the local zoning by-law will be able to have that decision made in their community by their local Councillors. At the same time, we have built in limited but effective safeguards to protect the citywide interest from potential abuse of these new powers by the Community Committee.

Where a Community Committee has not taken the initiative and not produced Local Plans, zoning change authority would not rest at the local level. The choice is there—those who welcome decision-making responsibility will act; those who wish to avoid it and blame someone else will not act.

The majority of the Committee suggests, however, that the various incentives provided in our recommendations will likely result in a new and positive impetus for local planning in neighbourhoods that need it. These incentives include not only those indicated above, but also are found in our suggestions for limited Community Committee local service expenditure control (see Recommendation 15), improved resident involvement (see Recommendations 51 to 54), stronger political leadership at Council (see Recommendation 8 to 12), improved ward and community boundaries (see Recommendation 16), and a more responsive municipal electoral system (see Recommendation 17). Regarding these latter proposals, our view is that a stronger, more accountable leadership within Council will result in a more secure protection of city-wide interests, such that greater decentralization of political, planning, and budgetary authority is both acceptable and beneficial.

With respect to the specific increase in planning authority at the Community Committee level now recommended, it should be clear that while Community Committee authority to approve and initiate zoning changes is contingent on the adoption of Local Plans, the transfer of final authority to issue variance and conditional use orders is not contingent on the existence of Local Plans. In the latter case, no appeal is available, and Executive Committee review may only be undertaken on grounds of new facts, or alleged violation of due process, or conflict with Council policy, and/or conflict with a municipal by-law as more specifically described and discussed in Recommendation 31. After review, Executive Committee may only order the Community Committee to rehear and reconsider the application; it may not impose a decision.

Should a particular case or impending decision be perceived as a matter of concern to the city-at-large, Executive Committee's only course of action would be to obtain Council's approval of a new or amended by-law, policy, and/or plan to rectify the situation.

The Community Committee's power to issue final variance and conditional use orders must be exercised within the framework of Council policy and legislation. For example, if Council has adopted a policy of permitting and indeed encouraging the location of social housing, semi-institutional group homes, or condominiums in all areas of the City, a Community Committee would be barred from denying a variance or conditional use approval for one of those purposes on the grounds that such action would conflict with Council policy.

It should also be clear that a Community Committee would only receive an application for variance or conditional use approval once it has been processed by the central administration under guidelines issued by Council. The important determination of whether any application would proceed as a zoning change or as a zoning variance, therefore, will be made as a result of Council's action, not a Community Committee's (see Recommendation 33).

Once Council approves Local Plans as compatible with the City Plan and Council's policies, the regulation of land-use and other planning functions within these areas should and can best be administered by the Community

Committees. This would have the additional desirable result of generally relieving the Council and its central bureaucracy of a great deal of detailed work. No administrative reorganization or change in reporting relationships is required by this decentralization of political responsibility. On the contrary, an even closer and more positive working relationship is likely to develop between the Community Committee and the field staff of the various City departments. We can only look upon this as a benefit to all concerned.

6.2 COMMUNITY COMMITTEES AND WARDS

Recommendation 15 *Increased Budgetting and Expenditure Powers for Community Committees*

The Review Committee recommends for Council consideration a specific scheme for extending limited control over local budgets and expenditures into the hands of Community Committees. We further recommend that the Act be amended to authorize Council to adopt such a scheme only under such conditions as are set out here.

The Review Committee recommends that each community should be allocated a community fund to be distributed annually by each Community Committee for local purposes as defined by Council. The amount of each community fund should be determined by a *per capita* formula which recognizes the greater needs of particular communities. This "greater funds for greater needs" formula should be approved by Council on the basis of recommendation of Executive Committee.

The needs formula adopted by Council should be designed to ensure that those communities deemed to have greater than average needs would receive a community fund proportionately larger than those with lower than average need. Need should be determined on the basis of generally accepted socioeconomic indicators or a more complex test combining economic, social, and physical measurements.

The needs formula should then be used to allocate monies from a city-wide 'local service pool' to individual community funds. The pool represents those monies set aside annually by Council for purposes of local services, programs and facilities, from which Community Committees may select according to their individual priorities. The amount of the local pool and the community fund available to each community must be determined by Council at least forty-five days prior to adoption of the City budget.

Once each community fund is established, the Community Committees would establish and adopt a community budget. In this budget, the Community Committee may allocate funds for any of the following forms of expenditures:

- Community Committee and office operations
- local planning and programming
- neighbourhood improvement programming and projects
- local leisure and recreation programmes and facilities

- local library educational and cultural programmes and facilities
- local social services and community outreach services
- resident participation programmes
- community relations policing and neighbourhood security services
- residential street signage and traffic controls
- grants to local organizations
- any other service, programme, or facility that Council may deem to be of a "local" character.

Community budgets must be adopted no later than thirty days after adoption of the City budget.

Each Community Committee should be required to report to Council annually on the manner by which it expended its community funds within and for the benefit of those sub-areas or neighbourhoods, and those groups of residents within the community area, with greater needs. Executive Committee will monitor and review the use of Community Committee authority to ensure that city-wide minimal standards are not compromised. Executive Committee will also review community budgets and expenditures to ensure Community Committee compliance with its requirements, compatibility with the City budget, and proper implementation by the civic administration. While policy and expenditure decisions will be made by Community Committee, implementation of those decisions will be provided by and through the City's central bureaucracy.

Council and Executive Committee will also ensure that Community Committees will not unduly interfere with or hinder the orderly administration of the City by employees and officials of the City. In the implementation of this local budgeting and expenditure system therefore, Community Committees must work within very specific limitations. They are:

- establish capital and operating budgets and expend monies only in accordance with Council policies;
- hire, dismiss, and deploy personnel only on short term contract maximum of one year) and in accordance with any collective agreements, personnel practices, and policies of Council;
- only expend monies in such a way that Council is not committed, without its approval, to spend money on capital works in the next budget year;
- supplement or redeploy the civic workforce within the community only through appropriate administrative officials of the City as determined by Executive Committee;
- not permit service levels to fall below minimum standards as may be determined by Council.

Executive Committee will monitor the performance of the Community Committees on these matters and take corrective measures as required.

Community Committees, in the allocation and implementation, must appropriate funds, and select methods and means of implementing city-wide policies, programmes, services, and public works within such Council guidelines as may be issued to the Community Committees which should include:

- minimum standards for the provision of the public service, program, or work;

- policy guidelines for delivery of the public service, program or work; and
- a decentralization framework specifying the scope, types, and limits of Community Committee authority.

No standards, policy guidelines, or instructions to Community Committees shall have the effect of negatively discriminating among communities. Council policy and the exercise of Community Committee discretion may have as their object "the amelioration of conditions of disadvantaged individuals or groups". [This provision for remedial action is taken from *The Canadian Charter of Rights and Freedoms*, section 15(2).]

On an annual basis each Community Committee will be invited to submit to Executive Committee its recommendations for the City's capital and operating budget, exclusive of items determined in this Act or by delegation of Council to be local budget items to be decided by Community Committee. Community Committees will also make recommendations to Council as to the size of the community funding pool and definition of "local" items to be included in that pool.

Discussion

In the view of four members of the Review Committee this detailed recommendation is fundamental to the objective of enhancing local control over local matters and particularly of increasing the resources and control of inner city and core area neighbourhoods within Unicity.

The original Act prescribed a far more fundamental and important role for Community Committees in the Unicity system than now exists. This role did not materialize in the early years largely due to the overriding attention required of the new fifty-member Council in unifying municipal administrations and services and in making the central political system work. Moreover, as the political reality of amalgamation set in—that is the weakening of the old City of Winnipeg and the strengthening of the new suburbs—the community committee structure was not seen by the suburban Councillors as the vehicle by which to press for local constituency, neighbourhood interests, and land development. City Council itself provided them with their most effective decision-making forum.

The Act was then amended in 1977 to remove many of the former budgetary functions from Community Committees. This was not done, in our view, because the concept had been proven impractical or unworkable; the original concept had simply never been implemented.

It could be argued that the change we recommend will accomplish little and have no visible impact on the real problems that face communities in the City. Sceptics might ask: Are the alleged "risks" of creating political and administrative confusion through local control over the community-based "margins" of municipal services worth the effort? We are convinced they are, and that once the modest experiment is proven successful City Council may wish to consider its expansion.

The central worth of our proposed scheme is to permit important service choices within the limits of available resources to be made at a local level—both to emphasize some services over others and to enrich some services by putting 'local money where local Councillors' mouths are'. By way of example, with funds at their disposal, Community Committees will be able to decide whether to:

- provide more and specific types of books for branch libraries;

- hire an outreach social worker or community organizer to bring city services to people most in need;
- install heritage lighting, pavement sidewalks, and street furniture to historic neighbourhoods;
- enrich Council's programme for neighbourhood improvement projects;
- acquire derelict or strategic properties to implement policies and land use objectives of a Local Plan;
- assist community clubs in improving their recreational facilities;
- provide more resources to themselves, resident advisors and neighbourhood associations in communicating with and involving community residents;
- earmark more funds for community relations police, beat police, and neighbourhood security services;
- provide the means by which the available hours and uses of community facilities may be varied from the standard norm.

All of these are perfectly appropriate choices to be made locally. They reflect the diverse neighbourhood needs of the City. They are legitimate determinations for local Councils to make and be responsible for.

Another criticism that could be levelled at this suggestion is that it allows spending of public money without the responsibility for raising it. Clearly, as anyone who looks at all carefully at federal-provincial or provincial-municipal transfers can attest, there is no sacred principle here. Moreover, such a principle should not be so rigidly applied as to preclude the achievement of other values, such as local decision-making and resident participation.

To us, the main management principle is that the revenue raiser and the revenue spender must be accountable. In this recommendation, we honour and in fact reinforce this principle.

One of the principal objectives and certainly one of the main achievements of Unicity through the City of Winnipeg Act was the equalization of taxation and the elimination of 'have' and 'have not' areas of taxable resources in what is essentially one large community. This achievement should not be compromised, and it will not be compromised, by vesting spending discretion for local public services in the hands of Community Committees. Such discretionary spending control does not imply or result in discretionary control over mill rates, that is, over the revenue-raising function. The Review Committee believes that local expenditure discretion can and must operate effectively without differential mill rates or any other undesirable or retrogressive consequences. The clock will not be reversed on Unicity by decentralizing expenditure authority in such a limited and controlled way.

The creation of a unified and centralized administration to deliver municipal services in a co-ordinated, city-wide manner was another of the real achievements of Unicity. The City now enjoys the considerable benefits of co-ordinated programming and planning in its major public services. The struggle to bring this about is now largely behind us, with only a few lingering exceptions. Systems are treated as systems and not a collection of independent operations as they were under the multi-municipal situation prior to Unicity.

The Review Committee would not entertain any concept that threatens the major achievements of Unicity. Services should not and will not be re-fragmented by assigning limited neighbourhood-level jurisdiction over them to Community Committees.

Skeptics will again ask: Why could local needs not be satisfied as well through the present system of centralized budgeting and control over expenditures and service delivery? In principle, since amalgamation, Council can allocate service resources throughout what was known as the metropolitan area. The administration can mobilize

these resources on a day-to-day basis to meet emergency and other unforeseen situations as they occur. And Council can distribute the service benefits of its enlarged financial resources on the basis of need, equity, equality, cost-effectiveness, or other principle of politics or management.

benefits of its enlarged financial resources on the basis of need, equity, equality, cost-effectiveness, or other principle of politics or management.

The outcome, however, is not always beneficial to those most in need. The political tug-of-war under Unicity frequently favours the suburbs in any real contest for limited resources. A recent example of this is Council's provision of large **matching** grants to community clubs for arena construction—a clear prescription for rewarding those volunteer organizations with greater financial and human resources. The centralized administrative system also generally leans toward administrative simplicity, rules applied across-the board, and types of service that may not satisfactorily reflect local needs and choices.

There is need in our view for the City to provide more of its own financial resources to those areas most in need, largely in the old City of Winnipeg. Notwithstanding the credible performance and probable renewal of the Core Area Initiative Program, a new and innovative municipal system to redress the imbalance of resource allocation in the City is worthy of serious consideration. We conclude that one of the potentially most effective ways of doing this is to insert a significant yet tolerable amount of formula-based decentralization of political and spending decisions into the centralized Unicity system.

Even the strongest advocates of a centralized political and bureaucratic system have seen some merit in assigning administrative responsibility for local park and recreation functions to the Community Committees and even in realigning the administrative organization to reflect a direct reporting relationship to the Community Committee on this function. But even in this view, budgets would still require Council approval and financial controls would remain as at present. It is questionable, however, that this function could be effectively administered on a local basis without some local budgeting and expenditure control. Indeed, the Committee believes, on the contrary, that the latter control is far more important than an increased administrative role for the Community Committee. The implementation of locally-made decisions could still best be provided, in our view, by the central administration.

We admit that vigilance will be needed to prevent the political decisions of Community Committees on budgets and expenditures from fragmenting administrative decisions or diffused administrative accountability.

The Committee by no means minimizes the significant and positive achievements of Unicity in creating a single mill rate and property tax structure, in raising service levels to a high and relatively universal standard, and in unifying bureaucracies. At the same time, the Committee believes that Unicity is now strong enough to permit, and indeed implement, a limited degree of decentralized decision-making and of local option.

The Committee had neither the time or resources to do an in-depth analysis of how this proposed budgetary and expenditure system should be structured. We considered our responsibility to be the setting-out of major principles. While we make no detailed recommendations as to specific pool or fund amounts or the needs formula to be used, we can offer some modest suggestions at this point.

The "local service pool", we believe, can be determined by a rather simple process of totalling all existing budget items in the City's annual current estimates that are already identified as "local", as distinct from city-wide or regional.

As an indication of the amount of money the City itself in 1984 allocated to services we consider are local, at least in part, we find the following:

Account Number	Department/Description	Total Budgetted
311-210 to 260	General Government: Community Administration	\$ 955,652
313-020	Environmental Planning: Development Programs	3,012,861
313-040	Community/Neighbourhood Improvement	444,621
	Parks and Recreation: Community Centres	2,843,448
324-151	City Centre-Fort Rouge	433,919
324-251	St. James-Assiniboia	450,897
324-351	Lord Selkirk-West Kildonan	450,508
324-451	East Kildonan-Transcona	558,857
324-551	St. Boniface-St. Vital	337,491
324-651	Assiniboine Park-Fort Garry	611,776
	Parks and Recreation: Wading Pools	453,444
324-135	City Centre-Fort Rouge	113,066
324-235	St. James-Assiniboia	55,185
324-335	Lord Selkirk-West Kildonan	83,117
324-435	East Kildonan-Transcona	76,303
324-535	St. Boniface-St. Vital	52,213
324-635	Assiniboine Park-Fort Garry	73,560
	Parks and Recreation: Recreation Programming	2,578,318
324-140	City Centre-Fort Rouge	648,526
324-240	St. James-Assiniboia	349,939
324-340	Lord Selkirk-West Kildonan	547,023
324-440	East Kildonan-Transcona	412,722
324-540	St. Boniface-St. Vital	225,599
324-640	Assiniboine Park-Fort Garry	394,509
	Parks and Recreation: Leisure Centres	254,935
324-152	City Centre-Fort Rouge	191,338
324-252	St. James-Assiniboia	17,161
	Lord Selkirk-West Kildonan	nil
324-452	East Kildonan-Transcona	46,436
	St. Boniface-St. Vital	nil
	Assiniboine Park-Fort Garry	nil
	Parks and Recreation: Outdoor Pool	463,161
324-180	City Centre-Fort Rouge	30,996
	St. James-Assiniboia	nil
324-380	Lord Selkirk-West Kildonan	96,473
	East Kildonan-Transcona	nil
324-580	St. Boniface-St. Vital	216,582
324-680	Assiniboine Park-Fort Garry	119,110
	Culture and Recreation: Branch Libraries	not available
331-610 to 740	Culture and Recreation: Local Museums	192,115
317-410	Social Services: Special Community Services	586,200
316-603	Police : Community Relations	755,327
319-026 to 031	Non-Departmental: Local Grants	176,940
	ESTIMATED TOTAL "LOCAL" ITEMS	\$12,717,022

This approximately \$12.7 million represents nearly 3% of the total 1984 current budget of \$428.1 million. While not an exhaustive accounting of monies that could be appropriated locally, it serves as a preliminary minimal indication of the potential magnitude of the "local pool". A "five percent of total budget" standard therefore, may provide a reasonable basis for establishing the annual pool.

From this total pool, the particular 'community fund' would be established by using a needs 'formula'. This formula could be as simple as the average **per capita** income per community or per ward. Such a measure could be considered an easy proxy for relative need around the City. Thus, for example, if the central area of the City exhibited, say, half the per capita income of a wealthier suburban area, the former would receive roughly double the community fund of the latter.

The formula could also be a more sophisticated weighted average of a number of measures. Examples here are such statistical indicators as per capita income, housing quality, open space per capita, social assistance rates, unemployment rates, crime rates, frequency of one parent families, and so on. While more complicated to construct, such a composite formula would represent a more comprehensive measure of need and, after its design, be nearly as easy to apply.

Indeed, such a formula is being used in the U.S. Community Development Block Grants Program (Title I, P.L. 93-383). This programme distributes federal funds to communities both within, and outside of metropolitan areas through "a three-factor formula—population, poverty (weighted twice), and overcrowded housing." This formula clearly includes measures of need, but no measures of what are known as "fiscal capacity" and "fiscal effort."

The manner in which the adopted formula is constituted and in which it is administered is crucial, of course. The application of the American formula has been shown to have dramatic effects on urban financial allocations, demonstrating that needs formulas are very practical and effective policy instruments. The Committee's proposals, however, clearly are directed at a result the complete reverse of that which the current U.S. administration is achieving—greater proportionate gains to the suburbs than the inner cities.

With these indications of how the system could work, we feel that it is a practical and realistic start toward more local responsibility for certain political choices in the future. Community Committees would be provided with at least partial resources to plan their neighbourhoods and implement their selected mix of services. Once the community fund is guaranteed, the Community Committee

- hire an outreach social worker or community organizer to bring city services to people most in need;
- install heritage lighting, pavement sidewalks, and street furniture to historic neighbourhoods;
- enrich Council's programme for neighbourhood improvement projects;
- acquire derelict or strategic properties to implement policies and land use objectives of a Local Plan;
- assist community clubs in improving their recreational facilities;
- provide more resources to themselves, resident advisors and neighbourhood associations in communicating with and involving community residents;
- earmark more funds for community relations police, beat police, and neighbourhood security services;
- provide the means by which the available hours and uses of community facilities may be varied from the standard norm.

All of these are perfectly appropriate choices to be made locally. They reflect the diverse neighbourhood needs of the City. They are legitimate determinations for local Councillors to make and be responsible for.

Another criticism that could be levelled at this suggestion is that it allows spending of public money without the responsibility for raising it. Clearly, as anyone who looks at all carefully at federal-provincial or provincial-municipal transfers can attest, there is no sacred principle here. Moreover, such a principle should not be so rigidly applied as to preclude the achievement of other values, such as local decision-making and resident participation.

To us, the main management principle is that the revenue raiser and the revenue spender must be accountable. In this recommendation, we honour and in fact reinforce this principle.

One of the principal objectives and certainly one of the main achievements of Unicity through the City of Winnipeg Act was the equalization of taxation and the elimination of 'have' and 'have not' areas of taxable resources in what is essentially one large community. This achievement should not be compromised, and it will not be compromised, by vesting spending discretion for local public services in the hands of Community Committees. Such discretionary spending control does not imply or result in discretionary control over mill rates, that is, over the revenue-raising function. The Review Committee believes that local expenditure discretion can and must operate effectively without differential mill rates or any other undesirable or retrogressive consequences. The clock will not be reversed on Unicity by decentralizing expenditure authority in such a limited and controlled way.

The creation of a unified and centralized administration to deliver municipal services in a co-ordinated, city-wide manner was another of the real achievements of Unicity. The City now enjoys the considerable benefits of co-ordinated programming and planning in its major public services. The struggle to bring this about is now largely behind us, with only a few lingering exceptions. Systems are treated as systems and not a collection of independent operations as they were under the multi-municipal situation prior to Unicity.

The Review Committee would not entertain any concept that threatens the major achievements of Unicity. Services should not and will not be re-fragmented by assigning limited neighbourhood-level jurisdiction over them to Community Committees.

Skeptics will again ask: Why could local needs not be satisfied as well through the present system of centralized budgeting and control over expenditures and service delivery? In principle, since amalgamation, Council can allocate service resources throughout what was known as the metropolitan area. The administration can mobilize

these resources on a day-to-day basis to meet emergency and other unforeseen situations as they occur. And Council can distribute the service benefits of its enlarged financial resources on the basis of need, equity, equality, cost-effectiveness, or other principle of politics or management. benefits of its enlarged financial resources on the basis of need, equity, equality, cost-effectiveness, or other principle of politics or management.

The outcome, however, is not always beneficial to those most in need. The political tug-of-war under Unicity frequently favours the suburbs in any real contest for limited resources. A recent example of this is Council's provision of large **matching** grants to community clubs for arena construction—a clear prescription for rewarding those volunteer organizations with greater financial and human resources. The centralized administrative system also generally leans toward administrative simplicity, rules applied across the board, and types of service that may not satisfactorily reflect local needs and choices.

There is need in our view for the City to provide more of its own financial resources to those areas most in need, largely in the old City of Winnipeg. Notwithstanding the credible performance and probable renewal of the Core Area Initiative Program, a new and innovative municipal system to redress the imbalance of resource allocation in the City is worthy of serious consideration. We conclude that one of the potentially most effective ways of doing this is to insert a significant yet tolerable amount of formula-based decentralization of political and spending decisions into the centralized Unicity system.

Even the strongest advocates of a centralized political and bureaucratic system have seen some merit in assigning administrative responsibility for local park and recreation functions to the Community Committee and even in realigning the administrative organization to reflect a direct reporting relationship to the Community Committee on this function. But even in this view, budgets would still require Council approval and financial controls would remain as at present. It is questionable, however, that this function could be effectively administered on a local basis without some local budgeting and expenditure control. Indeed, the Committee believes, on the contrary, that the latter control is far more important than an increased administrative role for the Community Committee. The implementation of locally-made decisions could still best be provided, in our view, by the central administration.

We admit that vigilance will be needed to prevent the political decisions of Community Committees on budgets and expenditures from fragmenting administrative decisions or diffused administrative accountability.

The Committee by no means minimizes the significant and positive achievements of Unicity in creating a single mill rate and property tax structure, in raising service levels to a high and relatively universal standard, and in unifying bureaucracies. At the same time, the Committee believes that Unicity is now strong enough to permit, and indeed implement, a limited degree of decentralized decision-making and of local option.

The Committee had neither the time or resources to do an in-depth analysis of how this proposed budgetary and expenditure system should be structured. We considered our responsibility to be the setting-out of major principles. While we make no detailed recommendations as to specific pool or fund amounts or the needs formula to be used, we can offer some modest suggestions at this point.

The "local service pool", we believe, can be determined by a rather simple process of totalling all existing budget items in the City's annual current estimates that are already identified as "local", as distinct from city-wide or regional.

As an indication of the amount of money the City itself in 1984 allocated to services we consider are local, at least in part, we find the following:

Account Number	Department/Description	Total Budgetted
311-210 to 260	General Government: Community Administration	\$955,652
313-020	Environmental Planning: Development Programs	3,012,861
313-040	Community/Neighbourhood Improvement	444,621
	Parks and Recreation: Community Centres	2,843,448
324-151	City Centre-Fort Rouge	433,919
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From this total pool, the particular 'community fund' would be established by using a needs 'formula'. This formula could be as simple as the average *per capita* income per community or per ward. Such a measure could be considered an easy proxy for relative need around the City. Thus, for example, if the central area of the City exhibited, say, half the per capital income of a wealthier suburban area, the former would receive roughly double the community fund of the latter.

The formula could also be a more sophisticated weighted average of a number of measures. Examples here are such statistical indicators as per capita income, housing quality, open space per capita, social assistance rates, unemployment rates, crime rates, frequency of one parent families, and so on. While more complicated to construct, such a composite formula would represent a more comprehensive measure of need and, after its design, be nearly as easy to apply.

Indeed, such a formula is being used in the U.S. Community Development Block Grants Program (Title I, P.L. 93-383). This programme distributes federal funds to communities both within, and outside of metropolitan areas through "a three-factor formula—population, poverty (weighted twice), and overcrowded housing." This formula clearly includes measures of need, but no measures of what are known as "fiscal capacity" and "fiscal effort."

The manner in which the adopted formula is constituted and in which it is administered is crucial, of course. The application of the American formula has been shown to have dramatic effects on urban financial allocations, demonstrating that needs formulas are very practical and effective policy instruments. The Committee's proposals, however, clearly are directed at a result the complete reverse of that which the current U.S. administration is achieving—greater proportionate gains to the suburbs than the inner cities.

With these indications of how the system could work, we feel that it is a practical and realistic start toward more local responsibility for certain political choices in the future. Community Committees would be provided with at least partial resources to plan their neighbourhoods and implement their selected mix of services. Once the community fund is guaranteed, the Community Committee

will be in the position to decide whether it wants to enrich certain services consistent with their priorities.

There are, of course, some potential dangers. The system could become a sham if Council transferred some existing line budget items to Community Committees according to need, and then compensated those areas not benefitting as much under the formula within other budget lines. Similarly, Council could establish the minimum standards at such a high level as to virtually eliminate the effective spending choices of Community Committees.

There is, however, an existing inclination by Council to appropriate specific 'conditional grants' to Community Committees and to delegate more authority to them. Council has specifically provided arena development funds on a matching basis to community areas. Council has also requested the Provincial Government to amend the Act to allow greater delegation to Community Committees.

In our proposed system, we suggest that Council, should it wish to decentralize further—a thrust with which we are clearly sympathetic—be required in the Act to do so on a socio-economic need basis and, furthermore, that the Community Committees themselves be authorized to determine, within the scope of their community fund, whether they want to spend money on an arena, library books, an outreach worker, or other neighbourhood improvement projects.

We are not proposing to force Council by statute to appropriate discretionary funds. If the system we recommend is not accepted by Council, it will not be instituted. The Review Committee believes, however, that the system will be perceived by City Council as having both public policy and service advantages, as well as political benefits.

Mr. MacDonald dissents from the recommendations in this section, both with regard to the principles advanced and the methods by which these principles are to be applied.

In the Committee's very lengthy discussions on this subject it becomes clear that Mr. MacDonald's dissent proceeds from a fundamentally different view of the Unicity Government from that which the majority members of the Committee would like to see in place, especially and uniquely as it involves the role of the Community Committees in the political system.

He does not view the government of the City as a federation of communities or that these Committees of Council can or should have any corporate life of their own. Their role, in his view, is a limited, but very important one which he defines as primarily political, not administrative. He sees the Community Committees as a very important link between the Council and the communities, participating actively in planning and policy formation, in land-use regulation, in interpreting and advancing the interests of the community to the Council and its Executive Committee in the above matters and in the allocation of resources and the development of the current budget. Conversely the Councillors in their capacity as members of the Community Committee should be prepared to explain, and hopefully defend, the policies and programmes of the City Council in the development of which they participated.

Mr. MacDonald dissents also with the concept of a "needs" formula for the redistribution of funds extracted from the budget to form a "local services pool." It may be that in the allocation of its resources the Council may be "unfair" to some communities. While that is a matter of subjective opinion, it is conceded that all political institutions respond to pressure which may produce results based on criteria other than need. It would be surprising if this did not happen to some degree at the City. Mr. MacDonald, however, disagrees with the proposed remedy, the substitution of a formula for political decision-making. Rather he would prefer to redress, if possible, the political

imbalance between the Community Committees and hopes that our proposed realignment may be a step in that direction.

With respect to the proposal to assign some discretionary control over the administration of certain services to the Community Committees, Mr. MacDonald does not agree that this can be effectively accomplished without a complementary reassignment of administrative personnel. The Community Committees, viewed as a vehicle for service delivery, even on the restricted basis contemplated by the Review Committee, could not function in that capacity without a permanent, ongoing administrative support structure responding to them, providing them with professional and technical advice, carrying out their instructions on day-to-day operations and accountable to them.

He does not consider that this arrangement is compatible with the concept of a centralized administration which he views as one of the most important of the many accomplishments of the Unicity Act.

Last, he feels that any arrangement similar to that recommended by the majority of the Review Committee was mandated by the original Act, was tried and found wanting (albeit under extremely difficult circumstances) and by common consent was removed by amendment to the Act.

6.2 COMMUNITY COMMITTEES AND WARDS

Recommendation 16 Reduction in the Number of Wards, and Adjustments in Ward and Community Committee Boundaries

The Review Committee recommends that the number of Community Committees remain at six, and that the number of wards and the number of Councillors be reduced to twenty-four.

The Committee further recommends that the boundaries and composition of both the Community Committees and the wards be adjusted where practical to provide: acceptable equality in population per representative, greater mutuality of interests and basis for cooperation among wards within Community Committees, and a lessening of parochial identifications dating from the pre-Unicity period. We suggest that new ward boundaries be determined on the basis of a collection of recognizable neighbourhoods with mutual interests and priorities. We also suggest that the boundaries of Community Committee areas, as composed of mutual-interest wards, be determined on the basis of similarity of interest and other political criteria, rather than being patterned on the administratively-convenient public works district scheme (see Map I).

The Review Committee further recommends that a Boundaries Commission, as required in the Act [sections 5(2) and 20(4)] be immediately appointed by the Minister of Urban Affairs, so that changes in ward and Community Committee boundaries may be made in sufficient time prior to the next municipal election. The Review Committee suggests that the Commission's work be guided by our recommendations and by the preliminary boundary map produced here (see Map II).

Finally, the Review Committee recommends that the names of wards and the Community Committees [s.20(1)] of which they are a part be amended in the

Act, as follows:

City Centre-West End Community Committee

1. Downtown-Sherbrook
2. Centennial-Point Douglas
3. Wolseley-Daniel McIntyre
4. Sargent Park-Polo Park

St. James-Charleswood Community Committee

5. Tuxedo-Linden Woods
6. Elmhurst-Westdale
7. Westwood-Crestview
8. Silver-Heights-Booth

West Kildonan-North End Community Committee

9. Tyndall Park-Keewatin
10. The Maples
11. Garden City-Jefferson
12. St. John's

East Kildonan-Transcona Community Committee

13. Elmwood-Chalmers
14. Rossmere-River East
15. Valley Gardens-Munroe East
16. Lakeside Meadows-Kern Park

St. Boniface-Fort Rouge Community Committee

17. Old St. Boniface-Norwood
18. Windsor Park-Glenwood
19. Riverview-Osborne
20. River Heights-Grant Park

Fort Garry-St. Vital Community Committee

21. Fort Garry Waverley Heights
22. Fort Richmond-St. Norbert
23. Minnetonka-South St. Vital
24. Southdale

Discussion

In examining ward numbers, boundaries, and sizes, the Review Committee was influenced by a number of factors:

1) The last redistribution of wards was done nearly 10 years ago, in 1977, after the previous Review Committee recommended reducing the size of Council from 50 to 29. Since 1977, significant population shifts have occurred, so that a number of Councillors now represent either too many or too few constituents.

2) The basis of the 1977 redistribution was the number of electors per ward that is those eligible to vote—rather than the total number of persons residing in the ward. This has meant that some Councillors, whose wards contain above average numbers of new immigrants, transients, those below the age of 18, and those not on the voters list for a variety of other reasons, represent larger numbers of people than other Councillors.

3) The Review Committee's opinion survey confirmed and documented our belief that most people in Winnipeg believe that Council should be reduced in size or remain the same. Very few favour increasing the size of Council. While 24 wards represent, in some people's opinion, an inconsequential reduction from the present 29, it is a convenient number within boundary constraints to provide four wards—and four Councillors—per Community Committee. As we believe that three Councillors per Community Committee would not be satisfactory, and that Community Committees should be as equal in population as possible, we established a working framework of four Councillors times six communities for a total of 24.

The Committee did look at various schemes involving both a smaller number of Community Committees and a larger number, but found neither situation acceptable. In future years, however, should it become advisable to again increase the size of Council and/or to elect Councillors on a community-wide or at-large basis, the six

community framework could be altered.

4) While ward boundaries generally conform to neighbourhood or district identifications, the Community Committee areas do not always provide a satisfactory geographical framework for political decision-making. In fact, they were determined in 1977 not on the basis of political, socio-economic, or area character criteria, as we suggest they should be, but on largely administrative criteria. In our judgement, the six public works districts, superimposed on the political map of Winnipeg, are not the means by which community boundaries should be determined.

5) We considered the influence of natural features, especially the rivers, and man-made barriers, including rail rights-of-way, major arterials, and divided roadways, on the establishment of ward and Community Committee boundaries. The Committee concluded that the rivers do not now represent or should they dictate political divisions. On the contrary, both their increased use and the City's existing and planned bridge crossings serve to tie communities on both sides together. Community Committee areas are suggested, therefore, that cross over both rivers when other criteria, such as probable mutuality of interest and likelihood of cooperation, are more important.

6) While many Councillors urged the Committee not to suggest substantial changes to ward or community boundaries, we have concluded that the adjustments we are suggesting are worth the short-term pain perhaps caused to some individual politicians. All candidates for office accept as a fact of political life changes in their constituencies from time to time. The increased competitiveness and dynamism resulting from political boundary changes are a positive benefit, in the Committee's view.

We expect our suggested redistribution of ward and community boundaries to bring other potential benefits as well. To only a limited extent, it redresses in an acceptable manner the political disadvantage of older areas of the City in the current suburban-dominated system. Two of our proposed six Community Committees are clearly identifiable as older areas; their representatives will be able to pursue resident interests with vigor within those communities and within Council. Two other Community Committees are perhaps more transitional in character, while two others are more clearly identifiable as new and growing suburban districts. We do not want to exaggerate the political impact of these suggestions, but we sense that a better balance of forces and a sounder basis for city-wide cooperation on civic priorities may result.

In arriving at these suggested ward boundaries, we relied on the City planning department's defined neighbourhood units (as contained in its Neighbourhood Characterization Study and map). We also used the City's 1984 population figures for each neighbourhood unit.

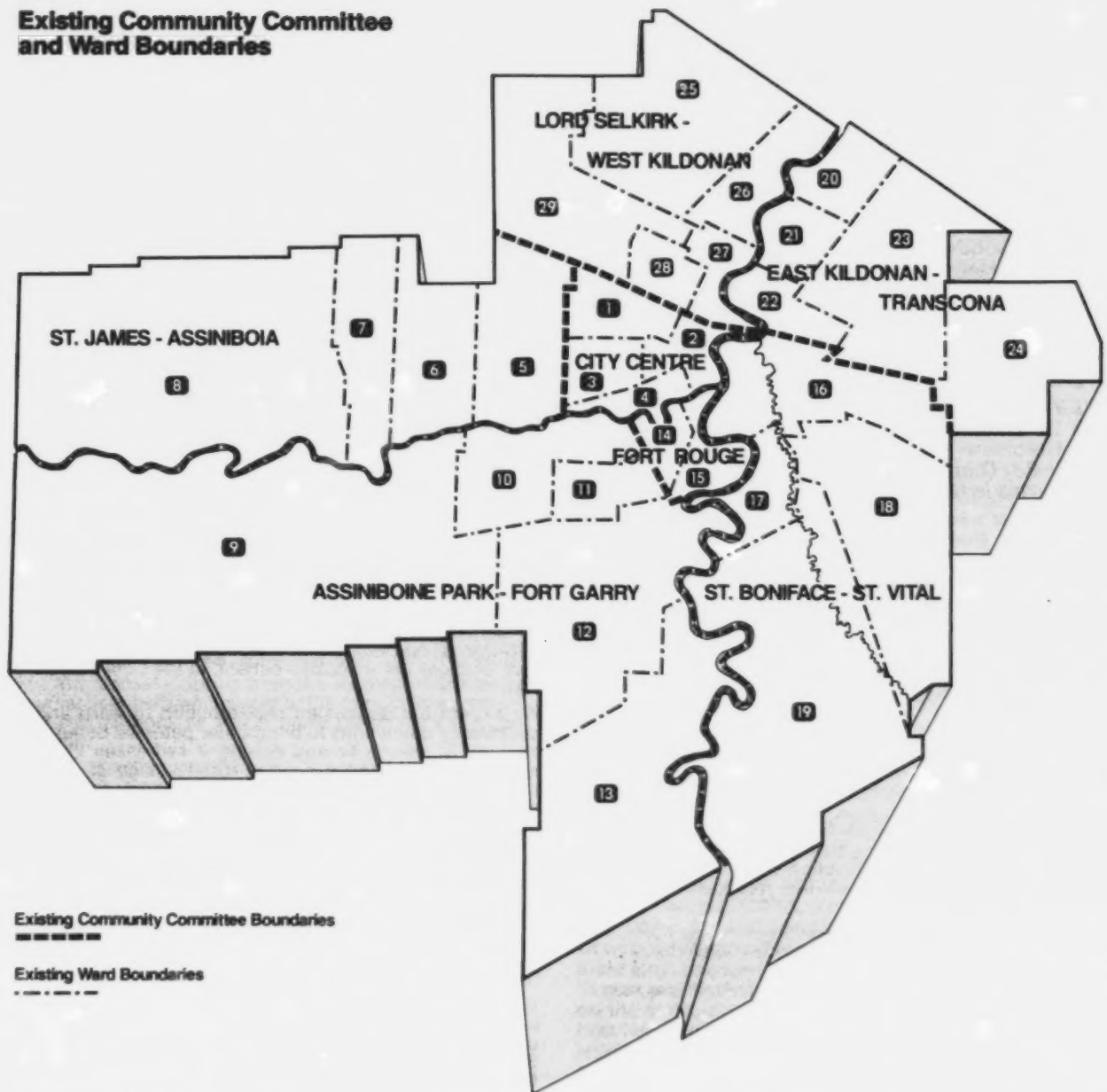
As the City's 1984 population is estimated to be 596,074 persons, the average number per Community Committee would be 99,437. Our guide for the acceptable variation in population between Community Committees is plus or minus 25% of the average, the same standard used for Federal and Provincial ridings. Therefore, a Community Committee area could have a minimum of 74,577 residents and a maximum of 124,296.

Similarly, the average population per ward would be 24,859 and the acceptable population range of plus or minus 25% of the average per ward would be between 18,644 and 31,074.

Our suggested scheme falls within that range for both wards and Community Committees. It should be noted that we take population to be the total number of residents, and not electors, in determining the constituency of elected officials. Thus, we disagree with the 1977 method of apportionment by electors, a method we consider to

MAP I

Existing Community Committee and Ward Boundaries



Existing Community Committee Boundaries

Existing Ward Boundaries

City Centre

1. Notre Dame
2. Redboine
3. Sargent Park
4. Memorial

St. James - Assiniboia

5. Deer Lodge
6. Stevenson
7. Grant's Mill
8. St. Charles

Assiniboine Park - Fort Garry

9. Charleswood
10. Tuxedo Heights
11. Crescent Heights
12. Pembina
13. University

Fort Rouge

14. Corydon
15. Riverview

St. Boniface - St. Vital

16. Tache
17. Glenlawn
18. Langevin
19. Seine Valley

East Kildonan - Transcona

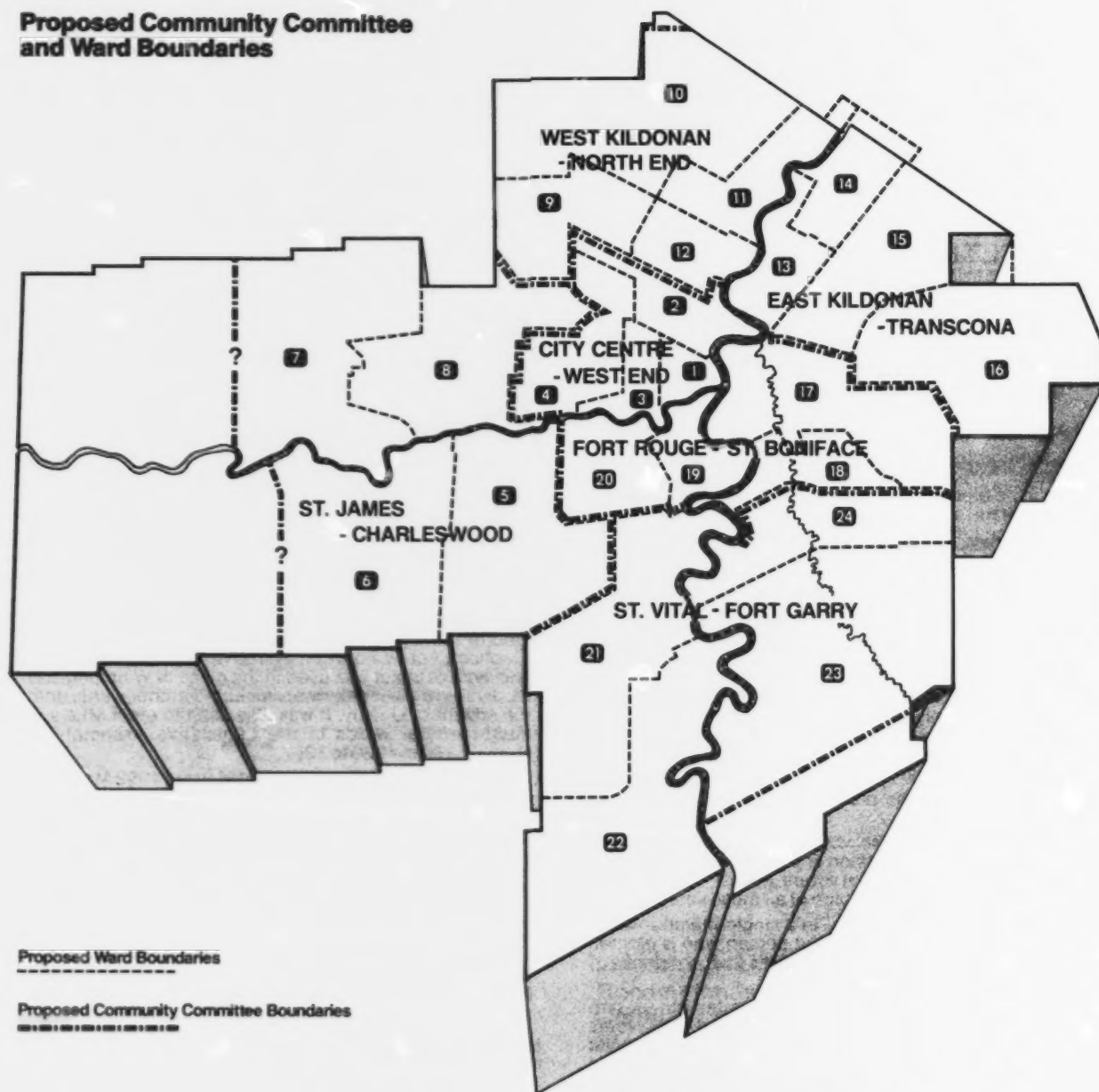
20. Henderson
21. Miles MacDonnell
22. Elmwood
23. Springfield Heights
24. Transcona

Lord Selkirk - West Kildonan

25. Jefferson
26. Kildonan Park
27. Norquay
28. Mynarski
29. Sisler

MAP II

Proposed Community Committee and Ward Boundaries



Proposed Ward Boundaries

Proposed Community Committee Boundaries

City Centre-West End

1. Downtown-Sherbrook
2. Centennial-Point Douglas
3. Wolseley-Daniel McIntyre
4. Sargent Park-Polo Park

St. James-Charleswood

5. Tuxedo-Linden Woods
6. Elmhurst-Westdale
7. Westwood-Crestview
8. Silver-Heights-Booth

West Kildonan-North End

9. Tyndall Park-Keewatin
10. The Maples
11. Garden City-Jefferson
12. St. John's

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13. Elmwood-Chalmers
14. Rossmere-River East
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Fort Garry-St. Vital

21. Fort Garry-Waverley Heights
22. Fort Richmond-St. Norbert
23. Minnetonka-South St. Vital
24. Southdale

be of disadvantage to inner-city representatives who typically have fewer electors but more residents in their constituencies. As municipal elections, registration, and turnouts vary among wards, the actual number of electors per ward and the number of votes cast per ward will also vary. We are not concerned about this and consider the only fair method of determining representation by population to be the total constituency, that is all adults and children, represented by a Councillor.

6.3 ELECTIONS

Recommendation 17 *Preferential Ballot to be Used to Elect Mayor and Councillors*

The Review Committee recommends that electors use a preferential ballot to elect their Councillors and the Mayor.

Discussion

The preferential ballot is used to ask the voter a simple question: "If your favoured candidate can't get enough votes to be elected, who would your next choice be? and if that person can't get enough votes, who would your next choice be? Vote '1' for your first choice, '2' for your second, and so on until there's no one left for whom you wish to cast a ballot."

The preferential ballot was used successfully in Winnipeg prior to the introduction of Unicity. It does not create a complicated-looking ballot; nor are the voters asked to do anything they don't normally do—pick a favourite, and pick the next choices.

The complications in the preferential ballot occur at the counting stage only, since there are various methods for working out the fairest way of giving effect to the wishes of the voters. With the availability of computers, these complications are very minor.

The advantages to the preferential ballot are relatively well-acknowledged.

This system involves the voter in the total picture by making certain that the person or persons who are elected have the clear confidence of voters, even if that person or persons weren't the first choice of all those voters.

In a single-member election—in a single-member ward, or for the election of Mayor—the person who is elected using the preferential ballot clearly has the confidence of the majority of voters.

With the "x" system, when three candidates run for one seat, the winner need only receive one-third of the votes plus one in order to win. The person who came in last might have been the second choice of the majority of voters—in other words, the person who best represented the various voters of that area—but lost because those who did not vote for that person as first choice were not asked who their second choice would have been.

There is among some voters a sense of wanting to "vote for a winner"—with the idea being that one wastes a

ballot by voting for someone who cannot possibly win. The preferential ballot allows the elector to cast a ballot for the preferred candidate without worrying about whether that vote is wasted; for if that preferred candidate can't get elected, then the "2" vote is counted.

Furthermore, although the preferential ballot works quite well—and probably most easily in the counting—for a single-member ward, its great advantage occurs in multi-member wards. With an "x"-type ballot in multi-member wards, there are two methods of voting: either the voter is allowed to mark only one "x" or the ballot is voided unless the voter has marked as many "x's" as there are members to be elected. With the first choice (currently used for

some school division votes), if a voter marks only one "x" the ballot becomes more powerful (the concept of "plumping"); with the second, the voter may be forced to vote for an unwanted candidate. The preferential ballot allows a voter to vote only a "1", or to vote "1" through "10" if there are ten candidates. The preferential ballot cannot be manipulated.

The Committee believes that the preferential ballot is extremely important to voter involvement. It encourages people to run, it requires the voter to think clearly of alternatives, and it creates an elected government which can represent the various constituencies which make up an urban government.

The preferential ballot has a long history in the City of Winnipeg. The Committee was able to obtain from the Election Reform Society in England a photocopy of a ballot used in Winnipeg in 1927 (see illustration). The basic form of the ballot is still set out in the Local Authorities Elections Act as Form 21, Third Paper (see illustration). This type of ballot was used in the cities of Winnipeg and St. James to elect aldermen in multi-member wards until the advent of Unicity. It was also used to elect MLA's in multi-member wards to the Legislative Assembly of Manitoba from 1920 to 1957.

An analysis of the results of the 1953 and 1959 Manitoba provincial elections shows clearly the differences between the preferential ballot and the "x"-ballot. In 1953, when the preferential ballot was used in 3—four-member constituencies, the parties receiving votes won seats in relative proportion to the number of votes; while in 1959, when the "x"-ballot was used in single-member constituencies, the parties receiving votes won seats in disproportion to the number of votes they received.

The preferential ballot in a multi-member ward was recommended in a working paper by the Manitoba Law Reform Commission in the 1970s.

The majority of the Committee favours the election of City Councillors in single-member wards for reasons given in Recommendation 19. The use of the preferential ballot in the single-member ward would be, to the Committee's knowledge, unique in North America and would, we believe, put the City of Winnipeg once again in the forefront of innovation and electoral reform among all Canadian jurisdictions.

Election for the Electoral Division of Winnipeg

Number on
Poll Book

Vote by placing the figure 1 in the square opposite the name of the candidate for whom you vote. You may also place the figure 2 in the square opposite the name of the candidate who is your second choice, and the figure 3 in the square opposite the name of the candidate who is your third choice—and so on.
DO NOT USE AIR 2.

A voting paper is invalid in which: (a) the figure 1 is not marked; or (b) the figure 1 is not opposite the name of more than one candidate; or (c) the figure 1 and some other figure is not opposite the name of the same candidate; or (d) any mark is placed by the voter by which he may otherwise be identified.

Name of Candidate	Mark Order of Preference
BURRITT ROYAL BURRITT, OF 65 MARLOW AVENUE, WINNIPEG, IS: WINNIPEG, MANITOBA.	
CAMERON DUNCAN CAMERON, OF 8 EMMERTON STREET, WINNIPEG, COUL. BENCHMART.	
CARTWRIGHT SAMUEL CARTWRIGHT, OF 80 ATLANTIC AVENUE, WINNIPEG, BECARMING.	
DOWNES JOHN DOWNES, OF 80 ST. ANDREW'S AVENUE, WINNIPEG, AGENT.	
DURWARD ROBERT DURWARD, OF 10 MASTER BOULEVARD, WINNIPEG, AGENT.	
EVANS WILLIAM SANDFORD EVANS, OF 28 DUNDAS AVENUE, WINNIPEG, PUBLISHER.	
FARMER JEROME JAMES FARMER, OF 47 ROSEDALE AVENUE, WINNIPEG, ACCOUNTANT.	
GILLESPIE ROBERT ALEXANDER GILLESPIE, OF 24 MORTGAGE STREET, WINNIPEG, MANUFACTURER.	
HAIG JOHN THOMAS HAIG, OF 73 CHESTNUT STREET, WINNIPEG, BARRISTER AT LAW.	
HUNT THEODORE ALEXANDER HUNT, OF 11 MIDDLE GATE STREET, WINNIPEG, BARRISTER AT LAW.	
IVENS WILLIAM IVENS, OF 1000 WESTERN BOULEVARD, WINNIPEG, ENTREPRENEUR.	
JAMES WALTER ALBERT JAMES, OF 57 BEECHFORD AVENUE, WINNIPEG, AGENT.	
LINDAL WALTER J. LINDAL, OF 78 HOLSELEY AVENUE, WINNIPEG, BARRISTER AT LAW.	
MACLEAN JOHN MACLEAN, OF SUITE 10, HAROLD APARTMENTS, WINNIPEG, BARRISTER AT LAW.	
MAJOR WILLIAM JAMES MAJOR, OF 105 HEDGECOCK AVENUE, EAST KILDONAN, MANITOBA, BARRISTER AT LAW.	
MAYBANK RALPH MAYBANK, OF 20 BALDWIN STREET, WINNIPEG, BARRISTER AT LAW.	
MONTGOMERY THOMAS WILLIAM MONTGOMERY, OF 100 HARRISON STREET, WINNIPEG, PHYSICIAN.	
MOORE ARTHUR EMMETT MOORE, OF 10 HINDELY AVENUE, SAINT VITAL, MANITOBA, COACH PAINTER.	
PENNER JACOB PENNER, OF 10 KILBRIDE AVENUE, WEST KILDONAN, MANITOBA, MILLSEMAN.	
QUEEN JOHN QUEEN, OF 100 ROSS AVENUE, WINNIPEG, SALESMAN.	
ROBSON HUGH JAMES ROBSON, OF 27 DUNDAS AVENUE, WINNIPEG, BARRISTER AT LAW.	
ROGERS LOTH ROGERS, OF 10 HARRISON STREET, WINNIPEG, HARRISSE NORMAN.	
SEDIK FRANK SEDIK, OF 10 REDWOOD AVENUE, WINNIPEG, HUSBAND AND BURNING.	
STEINKOFF ISA. STEINKOFF, OF 10 WELLINGTON CRESCENT, WINNIPEG, BARRISTER AT LAW.	
TOBIAS WILLIAM VERNER TOBIAS, OF 10 AMBASSADOR APARTMENTS, 10 HARRISON STREET, WINNIPEG, BARRISTER AT LAW.	

LOCAL AUTHORITIES ELECTION

Third Paper

Proportional Representation or Alternative Voting

Election of the Members of the of (name of local authority) (if required, Ward No. Polling Subdivision No. day of December, 19 For Mayor (or Reeve or Aldermen or Councillors or School Trustees.) (or as the case may be)	NAMES OF CANDIDATES Mark the order of your preference for the persons for whom you vote in the spaces below, using numbers, 1, 2, 3 etc.
	NAME OF CANDIDATE Address of Candidate
	NAME OF CANDIDATE Address of Candidate
	NAME OF CANDIDATE Address of Candidate

(Note: The words "Mark order of your preference for the persons for whom you vote in the spaces below, using numbers, 1, 2, 3 etc." shall be printed in bold type.)

6.3 ELECTIONS

Recommendation 18 Mayor to Continue to be Elected City-wide

The Review Committee recommends that the Mayor should continue to be elected at large throughout the City by the residents of Winnipeg.

Discussion

While a majority of Committee members originally favoured the election of the Mayor by Council, they were persuaded to retain the current system for at least three compelling reasons:

- the overwhelming majority of Winnipeggers favour the direct election of the Mayor;
- a radical departure from the current system, to be effective, must have widespread support; and
- many of the perceived advantages of a Mayor elected by Council can be achieved through other changes.

These and other reasons related to retaining the direct popular election of the Mayor are discussed under Recommendation 9.

6.3 ELECTIONS

Recommendation 19 Councillors to Continue to be Elected in Single-member Wards

A majority of the Review Committee recommends that City Councillors continue to be elected in individual single-member wards.

Discussion

On the issue of single-member wards and multi-member wards the Committee was unable to reach a clear conclusion.

Two members of the Committee, Mr. MacDonald and Mr. Cherniack, believe that there should be a return to a multi-member large ward system. They believe that within each of the six Community Committee boundaries described elsewhere in this report, four Councillors should be elected at large.

Two members of the Committee, Mr. Thomas and Mr. Epstein, believe that Councillors should continue to be elected, as they have been since 1971, on a single-member small ward basis.

One member of the Committee, Mr. Artibise, believes that the multi-member large ward system is the best method of electing Councillors, but can only agree to that system if the Act contains methods of election financing so that the cost of campaigning in wards as large as Community Committees can be partially borne by the taxpayers. The Committee is not prepared to recommend a scheme of election financing at this time and therefore Mr. Artibise reluctantly agrees with continuing the current single-member small ward system.

Those Committee members who favour the single-member small ward system believe that the small ward has a number of advantages. In their opinion, the retention of a single Councillor representing a single, smaller ward ensures greater responsiveness to local needs and opinions. By responsiveness they mean the ability of a Councillor to communicate and act on the concerns of residents and others immediately affected by municipal decisions. Councillors who might represent larger, multi-member wards would find it considerably more difficult to be aware of and deal with the range of policy and program concerns found among the 100,000 residents they would represent.

The aim of the multi-member, large ward system is to offset the excess parochialism within the current system by having Councillors serve a wider constituency and thus not be as dependent upon relatively small numbers of voters for their electoral survival. Mr. Epstein and Mr. Thomas share the concern that parochial outlooks often predominate City Council decision-making and that the interests of the city in general are sometimes damaged by overly self-interested local groups. Of course, what some observers take to be narrow parochialism can be seen by others to be legitimate local commitment and healthy responsiveness to local opinion.

More important to the issue of electoral systems, however, Mr. Epstein and Mr. Thomas are convinced that other major changes proposed in this Report by the entire Review Committee, particularly the strengthened roles and powers of the Mayor and the Executive Committee, will result in improved Council responsiveness to city-wide interests and concerns. In short, they believe that the new Executive Committee system will sufficiently restrain the excesses of narrow parochialism as to justify retention of the single-member, small ward representation system.

In addition to the possible loss of policy responsiveness to local areas, the introduction of larger multi-member wards could create serious and unnecessary problems for Councillors servicing constituents who encounter problems with the civic administration. As mentioned above, the four Councillors from a multi-member ward would represent 100,000 constituents. The workload in terms of telephone enquiries, written correspondence, and meetings with constituents, while not simply being increased fourfold within the larger ward, would also not likely be evenly divided among the four Councillors. The typical experience of other cities with multi-member wards is sometimes aggressive competition among ambitious Councillors and a situation in which the senior, higher profile, and perhaps harder working Councillors receive the greatest number of contacts and demands from citizens. This would place an even larger burden and concentration on those more prominent and effective Councillors who are also likely to be selected to serve on the Executive Committee and expected to give full-time attention to the development of city policies.

Particularly in certain areas of the city (such as the core area where there are a large number of new Canadians, many recent arrivals, and concentrations of people with serious economic and social problems), the constituency workload of Councillors could be particularly onerous. The small ward places clear responsibility on one elected representative to know, understand, and serve people. In

the proposed larger wards, many Councillors would have little time or ability to develop sufficient expertise in most of the ward issues and situations they will be called upon to deal with. Many would live and work outside of the neighbourhoods and areas concerned. Under the multi-member system, it is possible that the four Community Committee Councillors could all live in one particular section of the large ward. (Past experience with at-large elections in St. James, for example, demonstrates this possibility.)

The provision of staff to Councillors, as recommended by the Review Committee (see Recommendation 13), might somewhat alleviate the potential problem of overloading certain Councillors with a large volume of casework from citizens. It may be argued that the services of the City Ombudsman, as also proposed by the Review Committee (see Recommendation 59), might be employed to serve local constituents. However, Mr. Epstein and Mr. Thomas are concerned to preserve the role of the local Councillor as the primary and hopefully only necessary liaison agent between citizens and the civic administration when service is needed or problems arise. They conclude that there is a real and overriding value for citizens in having a single, elected and readily identifiable elected representative whom they contact on city matters. There would not be as close an identification and working relationship between citizens and Councillors if there were four Councillors representing all constituents in a large ward.

The small ward is often criticized as being a secure political haven for politicians with solid support among relatively small groupings of electors. The small ward, it is argued, is the dream of incumbents who are able to retain the loyalties of a comparative handful of voting supporters. On the other hand, a small ward can also be a dynamic political battleground with only the addition of a few hundred votes needed to unseat an incumbent Councillor. Small wards of 25,000 residents, perhaps 12,000-15,000 electors, and 3,500-4,000 votes cast will typically require about 2,000 votes for a candidate to be elected in a two-person race or possibly about 1,400 in a three-way contest. With the preferential ballot (see Recommendation 17), the winning candidate will be guaranteed to be the choice of the majority of voters casting ballots. Mr. Epstein and Mr. Thomas argue that this combination of the small single-member ward and the preferential ballot provide a merger of the best form of local urban representation and democratic practice.

Two other concerns of lesser importance should nevertheless be noted. Mr. Epstein and Mr. Thomas doubt whether the idea of large multi-member wards would be either publicly or politically acceptable to Winnipeggers, existing Councillors or future Council candidates, or the Manitoba Government. The possible benefits are marginal and not worth the risk of weakening local politics within Unity.

Second, there is the matter of what it would cost an individual to run an election campaign in the new larger wards. To reach the larger number of voters over an enlarged geographic area, candidates would have to spend much more and rely much more on outside contributions, organizations, and mass media advertising. While elsewhere in this Report the Committee urges the City to adopt a by-law providing limits and disclosure of election expenses, any realistic regulations will still not encourage or assist candidates who cannot raise the necessary funds.

Those Committee members who favour the multi-member ward system believe that a combination of the preferential ballot and the multi-member ward provides the best possible reflection of the diversity of viewpoints and interests among the voters of Winnipeg.

As well, if Community Committees are gradually to be given greater say in the affairs of their area, it is logical to

make each Councillor responsible to the electors of the entire geographical area for which they have responsibility to make decisions. It is one thing for a central Council to make decisions that might adversely affect a particular neighbourhood; it is another for one local Councillor to have the responsibility to make decisions for another local area on a local issue.

It is true that this would mean a significant change in the way Councillors have been elected since 1971. No longer would there be a clear and small geographical constituency to canvass. No longer would there be the ability to distribute a few thousand pamphlets in order to be known. On the other hand, the multi-member ward was the method by which most Winnipeggers elected their civic representatives until the creation of Unicity.

The advantage of the multi-member ward is that it allows the voter and the person running for office to choose other kinds of constituencies—whether they be geographical, ethnic, ideological, personal, or single-issue. A candidate may run on a community-wide basis and attempt to appeal only to voters within that community who sympathize with a particular position on the issues, or are attracted by the candidate's personality, or identify with the candidate's ethnic background. The campaign can be directed to the various kind of constituencies within a large community with little more expense than before.

With the preferential ballot, the person who attempts to appeal to a very narrow constituency runs the risk of becoming the last choice of everyone else. And unless that narrow constituency represents a large proportion of voters in the community, that person will not be elected.

There are various other methods of campaigning which become more reasonable in price with a large community constituency—advertising in constituency-based newspapers, whether they be ethnic, community, or ideological, advertising on the electronic media, using city-wide newspapers—which in a small single-member ward would not be worth the expense.

Most significantly, the elections would be easier for the media to cover on an ongoing basis. With six communities to be covered, there can and would almost certainly be, more intensive coverage than there is now with twenty-nine individual races.

But there are disadvantages to the multi-member ward which the Committee acknowledges. Most important is the difficulty the Committee sees with regard to the potential expense of campaigning in a large community. For this reason Mr. Artibise cannot recommend the return to the multi-member ward immediately.

6.3 ELECTIONS

Recommendation 20 City Urged to Adopt an Election Expenses By-law

The Review Committee recommends that *The Local Authorities Election Act* be amended to permit Municipal Councils to pass by-laws regulating election expenses and requiring the disclosure of contributions and the reporting of campaign expenditures.

While the authority granted to the City of Winnipeg would be permissive, the amendment to *The Local Authorities Election Act* would require any Municipal by-law to include the following provisions:

- a contribution limitation to any one candidate up to a specified amount in a given year;
- a requirement that receipts be issued for all money and in-kind contributions above a speci-

fied amount;

- a requirement that the official agents of candidates submit to the Municipal or City Clerk within 90 days of the election a financial statement containing the total amount of contributions received, a list of contributions including all goods and services donated, and the names and addresses of contributors who gave an aggregate amount exceeding a specified level;
- a requirement that the official agent of a candidate submit within 90 days of the election an itemized list of expenditures to the Municipal or City Clerk;
- a requirement that the lists of contributions and expenses be available for public examination at the municipal offices;
- a requirement that a ceiling be placed on total expenditures by candidate;
- a provision that contributions by individuals to municipal candidates be eligible for credit against Provincial personal income tax payable on the same *pro rata* basis as provided for in the Provincial Election Expenses Act;
- enforcement of the by-law would be the responsibility of the Municipal or City Clerk's office and the by-law should establish fines for contraventions of its provisions;
- by-laws may authorize public subsidies to be paid to candidates for municipal office who obtain a specified percentage of the votes cast.

Discussion

Election expense laws have been adopted or extended at the Federal level and in most provinces over the last two decades. The goals of such legislation are several:

- to strengthen confidence in the integrity of the political process through disclosure of contributions;
- to place limits on the amounts which can be donated to individual candidates as a way to avoid undue dependence upon a few large donors;
- the provision of tax credits for contributions to campaigns as a way to broaden the base of financial support to candidates and to encourage more citizens to become directly involved with the electoral process;
- the application of ceilings upon election spending to avoid the danger that politics will be open only to the wealthy or to individuals who are well connected to others with wealth;
- the provision of public subsidies to candidates who qualify, by obtaining a minimum percentage of the popular vote, to cover in part the minimal overhead expenses of a campaign, thereby somewhat equalizing election contests.

There has not been widespread public concern about the financing of civic election campaigns, though some critics have expressed suspicions about contributions from large developers in terms of the possible impacts on votes by Councillors on development projects. The Committee believes that disclosure, which has been done voluntarily by some civic candidates, would help to allay some of these concerns. Encouraging donations from a wider spectrum of society would avoid the appearance of candidates being beholden to a small number of large donors. Ceilings on election expenses would avoid the impression that richer candidates can "buy" electoral success by outspending their opponents and would also

help to curb the upward pressure on campaign costs.

The Committee is recommending permissive legislation, with certain mandatory features required, to enact municipal by-laws governing campaign expenses. It could be argued that a universal and uniform approach should be applied to all municipalities by means of Provincial legislation. This argument ignores the differences among municipalities in terms of their size and character.

Consistent with our recommendations on other matters, we believe that City Council should be relatively free to set its own rules governing the political system. Both Ontario and Quebec follow the permissive approach of allowing municipalities to set their own election expenses laws subject to Provincial guidelines. Over a dozen Ontario municipalities, including the urban centres of Ottawa and London, have adopted by-laws on this subject. In both those provinces, the call for a tax credit at the Municipal level has been rejected because such a program would entail the subsidization of City politics from Provincial funds. In those two provinces, the personal income tax is not shared with the municipalities. Manitoba's situation is different because a portion of both personal and corporate income tax is designated for municipal use. If the City of Winnipeg adopted an election expense by-law, it would in effect be spending its own money by authorizing tax credits for campaign contributions.

6.3 ELECTIONS

Recommendation 21 *Revised Qualifications of Electors*

The Review Committee recommends that eligibility to vote in elections for the Mayor and Councillors of the City of Winnipeg be based on six-months residency in the City, attainment of the age of 18 and Canadian citizenship.

Discussion:

The fundamental unit of the City's electoral system is the ballot. Who may, and who may not, lawfully exercise the franchise is, therefore, a central question when considering the operations and effectiveness of **The City of Winnipeg Act**.

Throughout Manitoba elections for municipal councils and school boards are governed by **The Local Authorities Election Act**. The characteristics and attributes that qualify a person to be an elector in the City of Winnipeg are defined by that Act.

Our recommendation on this subject follows from our answers to the following two questions: 1) Should the non-resident who owns property be entitled to vote; and 2) Should voting be conditional upon citizenship?

Across Canada the tests employed to determine whether or not a person will be an elector at the municipal level vary, but in the main they are age, citizenship, residency, and property ownership. These factors are given different weight in each province in a variety of Acts.

All members of the Committee feel that residence in the municipality for a reasonable period should be the principal qualification for enfranchisement, conditioned by age (to correspond with the requirements of senior governments). The majority of the Committee would retain the qualification of citizenship.

Non-Resident Voters

The Review Committee asserts that, in a modern urban democracy, the property franchise is an anachronism which should be rescinded. Property holding should not in any way condition an individual's access to one of the most basic democratic rights.

The Local Authorities Election Act qualifies several classes of persons as electors in municipalities provided that they are Canadian citizens and have attained the age of majority. None of these persons need be resident in the municipality (or even the country!) provided that they 1) own land in the municipality or 2) are tenants or occupiers of land in the municipality or 3) pay business tax on premises in the municipality or 4) pay a fee in lieu of business tax connected with the occupancy of premises in the municipality.

These vestigial forms of a 'property' franchise are remnants of the seventeenth century conception of a municipality as a corporate body composed of property owners who joined together to accomplish certain public works for the benefit of all. Property owners were analogous to shareholders in a corporation with business purposes: they alone had stakes in the municipal corporation; they alone had votes. This concept has found a variety of historical expressions in Manitoba's elections laws. In 1972, concurrent with the initial passage of **The City of Winnipeg Act**, **The Local Authorities Election Act** was amended to remove the right of corporations owning land to vote in municipal elections, for example.

At that time only electors could be candidates for election, and electors were required to own real estate. The Committee heard of devices used to register property in the names of two landless candidates for office who went on to long and distinguished careers in Canadian political life, but only after clearing the hurdle of Winnipeg's property franchise.

The Committee does not accept the notion that a non-resident property owner has an equal stake in the affairs of the City with residents, whether landowners or not. Nor does the Committee accept the notion, implicit in **The Local Authorities Election Act**, that one piece of real estate might yield as voters several owners, several tenants and perhaps a business taxpayer or two.

Other conditions being met the franchise should be associated with an habitual commitment to place, to residence, rather than to ownership.

This recommendation should also be considered for the economy it will produce. Preparing the list of electors for municipal elections is far more costly and time consuming than the analogous task for provincial or federal elections since the municipal enumerator must include not only those electors who can actually be found on the streets and in the homes and apartments of the City but also all those whose names appear on the assessment rolls and the business tax rolls. These lists must all be scrutinized and integrated in order to produce a final voters list. The Committee suggests that the simpler procedure of the senior governments is superior and can be effectively introduced by eliminating all aspects of the property franchise.

Citizenship

The majority of the Committee feels that voting is one of the few privileges accorded citizens and that this privilege should be withheld from non-citizens.

We have come to this conclusion after careful consideration of cogent arguments to the contrary which were presented at one of our public hearings. We were told that the present enfranchisement of British Subjects without regard to their citizenship status discriminates unfairly and illogically against all those who cannot claim status as British Subjects and is particularly unjust in the instance of landed immigrants, who have demonstrated a greater commitment to Canada than British Subjects who are not landed immigrants. As well we were told that Canadian citizenship is, for many Winnipeggers, too difficult a qualification for enfranchisement since a significant number of immigrants will never proceed from landed

immigrant status to citizenship because they will never be able to pass a crucial test of citizenship: the ability to speak one of the country's official languages.

We see no reason to continue to equate a Canadian citizen with a British Subject and to enfranchise British Subjects without regard to their citizenship status. The effect of our recommendation is therefore to prohibit any non-citizen—whether a British citizen or not—from voting.

Likewise we believe that it would be a mistake to equate landed immigrant status, which implies only a degree of commitment and intention, with Canadian citizenship, which is both an achievement and a full commitment.

The right to vote is one of the more important privileges of citizenship. While acknowledging that no large questions of loyalty and allegiance—matters of defence for instance—are determined at the municipal level in Canada, we nevertheless prefer a careful rather than loose definition of those who are accorded a full say in the affairs of the community for the more definite description of the community itself which this standard yields.

We recognize and applaud the rich and varied contribution to all aspects of life in Winnipeg made by the continuing flow of immigrants from all sources. We emphasize our conviction that voting is a special contribution, a right, a privilege and a duty reserved for citizens alone.

Mr. Epstein records a specific dissent from the citizenship requirements contained in this recommendation. He suggests the substitution of "resident" for "Canadian citizen" as a qualification for voting in municipal elections. Otherwise, he is in full agreement with the remainder of the changes recommended. Mr. MacDonald joins Mr. Epstein in this view.

Mr. Epstein's view on this matter is quite simply that the right to vote in **municipal** elections is an inherent right of individuals residing in and participating in the life of a community. This right is thus not dependent or conditional upon being a citizen of the nation.

Mr. Epstein says that a great many residents of Winnipeg have chosen to leave their former countries and to live here. They pay taxes, directly and indirectly. They partake in the services provided by the city, the school divisions and other government agencies. They participate in the life of the community, whether it be through social agencies, school committees, community clubs, ethnic societies, Folklorama pavilions, business or labour organizations, or in a myriad of other ways. They contribute their skills and labour to the city's multicultural fabric and its economic vitality.

Mr. Epstein contends that based on the Committee's limited recommendations, many of these productive, active, and voluntary Winnipeg residents will still be denied the vote in city elections, for the sole reason that they have not, can not, or choose not to obtain Canadian citizenship. There are many legitimate reasons for this—reasons that even the most committed Canadian nationalist can appreciate and accept.

In his view citizenship is simply not a valid test, if indeed one is needed or possible, of a voter's political knowledge, commitment to the City, ability to understand and communicate, or make election day judgements. He contends that only living in Winnipeg provides the best qualification to vote for Municipal officials. Thus, the concept of a "citizen of Winnipeg" is distinguishable for practical purposes from that of a "citizen of Canada". Indeed, in later sections, the Committee itself has been careful to use the clearer and more precise term "**resident** involvement", rather than the oft-used "citizen participation".

This is not a radical or heretical idea. Indeed, the Province of New Brunswick now leads the way in simplifying the qualifications to vote in local elections. That Province has rejected the traditional notion that the local franchise is a

privilege reserved for the citizen. Instead, New Brunswick has enacted legislation upholding the broader view that the franchise is a right inherent in each individual by his/her nature. Thus, citizenship is no longer a requirement to become an elector in a municipality in New Brunswick. Manitoba should follow New Brunswick's lead.

Mr. Epstein recommends, therefore, that any individual who has attained the age of majority and who is a resident of the municipality should be entitled to have his/her name entered on the voter's list. This is not only just, but will also result in a cheaper and simpler enumeration process.

6.4 ADMINISTRATIVE ORGANIZATION

Recommendation 22 *Administrative Organization to be Established by Council*

The Review Committee recommends that City Council be authorized to establish the administrative structure of the City by by-law upon recommendation of the Executive Committee.

Current provisions in the Act prescribing specific duties and responsibilities of senior administrators should be deleted.

Discussion

The detailed administrative organization of the City of Winnipeg as currently set out in the Act is an unnecessary element in a statute. As a responsible municipal government, the City of Winnipeg Council should have full authority to establish—and thereafter revise at their discretion—the administrative structure of the City.

While the Committee did discuss administrative organization, we viewed the matter of specific structural models as outside of our necessary scope of inquiry. We unanimously accept and wish to promote, however, the principle that the political organization of the City must be empowered with clear authority over the civic administration and its structure.

This recommendation is not to be viewed as a comment by the Committee on the City's current administrative system or personnel. In general the Committee agrees that the administration of the City of Winnipeg has been one of the major strengths of Unicity. Problems we have identified are only occasionally the result of administrative structure as it is; they are more often a result of senior administrators having to fill power and responsibility vacuums created by elected representatives.

At the same time, this recognition should not be taken as a recommendation that the current system be retained without discussion. The fact is that as the political organization of Unicity improves and evolves, so too must the administrative structure adapt to the changing needs of the leadership of Council.

The Committee strongly recommends, therefore, that City Council be permitted by the Act to create an administrative organization that fits with its political style and intentions. In particular, the administrative organization must recognize the central function of the Executive Committee, ensuring that this part of City government obtains the necessary administrative support and is able to provide policy direction. That is why we suggest that, with the exception of certain statutory officers, the rest of the administration reports to, and is directly responsible to, the Executive Committee.

The Review Committee debated, but did not resolve, the issue of whether effective administrative leadership and

unified direction are best obtained through a chief administrative officer or a board of commissioners. All members agree, however, that when considering the design of the administrative arm of government, compatibility with the political structure should be the foremost consideration.

The Committee, therefore, does not presume to tell Council how it should organize its administration. The Committee understands that the political structure it is recommending will inevitably require changes in the administrative structure. It encourages the Executive Committee and Council to be creative in approaching this challenge.

6.4 ADMINISTRATIVE ORGANIZATION

Recommendation 23 *Council may Delegate Administrative Authority to Employees*

The Review Committee recommends that section 47 of the Act be amended to read:

The council may by by-law delegate to any of its employees any of its duties or powers respecting the administration of the city provided for under this or any other Act.

Discussion

The current section 47 allows Council to delegate only to the Board of Commissioners, and the Board of Commissioners to delegate to any commissioners or employees. A necessary consequence of allowing Council to set up its own administrative organization is the right to allow Council to delegate its administrative duties or powers to any employees Council sees fit. This must naturally be done by by-law.

The Committee has proposed earlier that the Executive Committee can be given, if Council passes a by-law to that effect, the power to delegate its "authority to the administration for purposes of carrying on the daily work of running City services and facilities" (see Recommendation 8).

Council therefore will have two ways of delegating authority to employees and is thus given greater flexibility in the way it sets up its administrative organization.

The mechanisms for accountability of Council and Executive Committee—delegations of responsibility notwithstanding—are discussed throughout this Report.

SECTION 7: CITY PLANNING AND ENVIRONMENT

Introduction and Summary

The Review Committee believes that the planning objectives of both the City and the Province can be better served by substantially amending Part XX of the Act, titled "Environment." In the following pages we recommend changes with respect to the Winnipeg City Plan, Special Area Plans, Local Plans, development control, zoning processes, environmental impact reviews, and municipal powers over waterways. Furthermore, the Committee calls for the establishment of a new corporation to address the special issue of Winnipeg's rivers and streams.

In proposing amendments to Part XX, we place great emphasis on related changes in the parts of the Act which prescribe the political organization of the City. Planning is one manifestation of the political process. Strengthened Council leadership, improved executive organization, visible accountability for political decisions, clarification of the roles and powers of both City Council and the Provincial Government, improvements in public hearing and due process provisions, decentralization of authority and decision-making, and improved and more effective resident involvement—all are crucial to improved planning in Winnipeg. Our planning recommendations can best be understood and judged, therefore, within the context of our recommendations on provincial-municipal relations (Recommendations 1 to 7), political and administrative organization (Recommendations 8 to 23), inter-municipal relations (Recommendations 40 to 45), and resident participation (Recommendations 46 to 59).

The Review Committee's recommendations in this section comprise an inter-related group of rather detailed proposals. We urge a thorough and comprehensive consideration of the complex connections among the separate items.

No aspect of the civic government under **The City of Winnipeg Act** was so severely criticized at the Committee's public hearings as the perceived failure of Council to discharge adequately its prime political responsibility—that of providing planning leadership. This was the case as much in submissions from business and development representatives as from academic, professional, resident advisory group, and many other organizations and individuals. Many complained that a sense of direction was lacking with regard to the City's future development patterns, and that the social and economic consequences of alternative courses of action are not adequately addressed. The picture conveyed was one of chances missed and responsibilities evaded. The City's role was described by most as one of reaction to initiatives taken by the private sector or by senior governments.

The public hearing and approval requirements of the Act with respect to Community Plans and Action Area Plans have not been widely tested, since relatively few plans have been prepared. Consequently residents of most of Winnipeg's communities have been denied the protection and predictability intended by the Act—that of having some say and making some contribution to planning in their communities, and of finally obtaining a clear knowledge and understanding of what the future holds for their neighbourhoods.

The City of Winnipeg Act first required the preparation and enactment of a new Greater Winnipeg Development Plan by 1977. Its successor, Plan Winnipeg has yet to become law at the time of writing. This protracted process threatens to render the City Plan to some degree obsolete before it is even approved. Moreover, since 1971, the City has made virtually no effort to prepare Community

Plans as required. Only limited attention has been paid to the preparation of Action Area Plans. The Committee finds it difficult, therefore, to come to definitive conclusions as to the workability and effectiveness of these sections of Part XX, since both the City and the Province have largely ignored them.

As the Province has taken no action to enforce compliance with the neglected sections of Part XX, both the provincial and municipal governments must bear joint responsibility for ignoring the Act's major planning provisions and frustrating the will of the Legislature.

The City, in 1980, requested that the Provincial Government repeal Part XX of the Act and replace it with a general provision enabling the City to establish its own plans and planning procedures. This appeal for relative autonomy and simplicity, while attractive and acceptable to the Committee to some degree, has not won our unqualified sympathy.

The Committee is not persuaded that the remedy for failure to abide by the law is to abolish the law. Rather than abandoning most of the statutory provisions of Part XX and eliminating the requirements for Ministerial approval (as the City has requested), we conclude that more practical, specific, and clearer responsibilities need to be defined. Once this accountability structure is in place, a much more determined effort to comply with both the letter and the spirit of the amended Act is likely.

The Committee agrees with the civic administration and a number of other critics that the "hierarchy of plans" principle as now applied and some of the planning requirements currently enshrined in the Act are neither working nor are they appropriate to a major urban government. The fact is that the Community Plan sections of the Act have not been given effect. City Council, which has had a statutory obligation since 1977 "to cause to be prepared and approved under this Part a community plan for each community" [section 583(1)], has adopted but one (for West St. Paul in the Additional Zone). The Minister could have imposed the requirement to prepare these plans upon the City (section 579), but has not.

The planning philosophy of the civic administration is opposed to community plans as the Act presently requires them. While making a strong case for an alternative planning process, the administration nevertheless has ignored the law of the city, in the face of resident requests to the contrary. Worse still, the City Council has silently permitted this administrative violation of the statute, a situation that runs counter to any principle of political responsibility.

City officials contend that, after Council's official requests that the Minister remove the offending planning requirements from the Act, the Minister of the day did not even respond, much less give reasons for neglecting or denying the City's requests. Failure of governments to uphold their own laws or to change them when needed undermines the faith and respect the citizenry accords their elected representatives.

It should be clear that we do not intend our local planning recommendations to offer any form of tacit support for the City's violation of its existing legal obligations to prepare Community Plans. Indeed, we remain critical of both the City's violation of the Act in this regard and the Province's failures either to enforce its own statute or to respond to the City's repeated requests for amendments to the planning sections of the Act.

In the continuing conflict between the planning philos-

ophies of the City and the Province, the Review Committee seeks some resolution that recognizes the practical merits of the City's approach. Were the Province resolute in enforcing the Act we might be able to examine the actual experience of 14 years under the planning regime erected by the Act.

The Committee finds merit in the City's preferences for greater discretion at the local level, an on-going planning process, and simplified public hearing procedures. Our recommendations reflect these views and, if implemented, should remove the last major objections of the City's planning professionals to the legislative parameters set by Part XX and encourage new attention to local planning in the City.

In our view, the City now possesses sufficient power to initiate plans. It is also obligated to plan, by law, in specific areas and in specific ways. If it does not do so, the City risks losing its authority and either having its obligations rigorously imposed upon it or having its planning done for it by the Province.

On the other hand, since determination on the part of the Province is not apparent, we conclude that the Province has no strong arguments to advance in support of its planning philosophy and is not wedded to existing provisions. Indeed, we recommend that the Province amend the Act and then either embrace its own responsibilities for the City Plan or else abdicate completely its planning role and transfer all planning authority to the City.

7.1 CONTENT AND APPROVAL OF PLANS

Recommendation 24 *Expanded Scope and Content of the Winnipeg City Plan*

The Review Committee recommends that sections 569 and following of the Act be amended to provide a new title for the "Greater Winnipeg Development Plan," and expansion of the Plan's scope and content.

Name and Definition:

The Greater Winnipeg Development Plan now commonly known as "Plan Winnipeg" should be re-formed as the Winnipeg City Plan.

The Review Committee recommends that the definition of the Winnipeg City Plan be: "a plan for the entire area within the boundaries of the City of Winnipeg, consisting of policies, general land use designations, and proposals for land use, infrastructure, transportation, social and economic development, environmental management, and other related services and measures, and analysis of financial requirements, Council commitments, and strategies for the implementation of the Plan, with respect to the overall urban area, community areas, special areas, and/or wards of the city," and that this definition replace the present section 569(f).

Scope and Content:

The City Plan should continue to encompass those items currently delineated by the Act [section 573(a) to (f)]. These subsections refer to:

Description:

- (a) physical, social, environmental, and economic conditions, and purposes of land use
- (b) size, composition and distribution of population
- (c) public services and facilities

Needs:

- (d) housing requirements, including neighbourhood and urban core improvements
- (e) open space requirements, including forested area and riverbank management
- (e.1) significant heritage area and site protection and management
- (f) "any considerations" not mentioned above

The Review Committee recommends that the Act should also require that the City Plan include:

Policies and Strategies:

- (g) social and economic policies of the City
- (h) an integrated physical-environmental-social-economic planning strategy for the City

Impact Analysis:

- (i) analysis of the impact of City policies, plans, and proposed actions on the Winnipeg region and the Province in general

Special Area and Local Plan Guidelines:

- (j) municipal objectives, policies, and planning guidelines for designated "special areas" within communities that are declared to be important to the City at large and for which Special Area Plan by-laws may be adopted by City Council
- (k) municipal objectives, policies, and planning guidelines for specific community areas or wards, to provide the framework within which Local Plan by-laws for smaller districts and/or neighbourhoods may be adopted by Community Committees.

Implementation:

- (l) phasing and schedule for the Plan's implementation
- (m) specification of integrated program packages, financial requirements and budget intentions for proper implementation of the City Plan; and
- (n) projected five-year capital requirements for the adequate implementation of the City Plan.

Discussion

The Review Committee feels a change in title from the Greater Winnipeg Development Plan to the Winnipeg City Plan should help to neutralize the document's seeming emphasis on development, thereby removing what may appear to be an implicit bias. The name change also clarifies the plan's geographical scope as limited exclusively to the boundaries of the unified City, and removes confusion resulting from reference to a greater area.

The Committee considered at length the appropriate nature and scope of a city plan, and the extent to which the Act should prescribe the plan's content.

One alternative would be to delete the current Act's requirements (section 573) and equip Council with discretion to be as vague or specific as it wishes. The danger here is that the resulting document may be so general, or so inconsistent, as not to be worth the trouble. We also observed that elected officials often wish to retain as much flexibility in decision-making as possible, and since one of the purposes of planning is to introduce stability and predictability, we concluded that this alternative would be quite inappropriate.

Another alternative was to leave the statutory provisions for the Development Plan as they are. Current performance

has been roundly criticized. Indeed, a seasoned observer has recently described the Development Plan, with perhaps an elevated, yet understandable, degree of cynicism, as

really only an expression of pride in the community's past and of promise for its future, given an air of factuality and believability by pseudo-scientific theory and the incantation of technological jargon. It is in essence a statement of benevolent hopes and aspirations expressed on behalf of the community by the Council, through a curious mixture of optimistic expectations based on unreliable projections in terms of equivocal policies enshrined in unenforceable legislation.*

The Committee concluded, on the basis of both the Greater Winnipeg Development Plan and the Plan Winnipeg experiences, that clear parameters for plan development would benefit Council, administration, Community Committees, and residents at large.

A third alternative, that of providing more detailed and definite direction to the City for preparation of the City Plan by-law, was considered by the Committee as the most desirable and useful course of action. It is rooted in our belief that a City Plan cannot be painted in such broad brush strokes as to lack the definition required for consistent implementation.

The Act currently defines the "Greater Winnipeg Development Plan" as meaning "statement of the city's policy and general proposals in respect of the development or use of the land in the city and the additional zone, set out in texts, maps or illustrations, and measures for the improvement of the physical, social and economic environment and transportation" [section 569(f)].

The Review Committee believes that the scope and content of the Plan must be expanded and made more precise. It must be a comprehensive document—one that charts with great specificity the City's intentions for the future of the urban areas, including its constituent communities. Our conception requires the description of a city-wide physical, environmental, social, and economic policy structure as the legislated framework within which City Council and Community Committees must make subsequent planning decisions. The plan would establish overall policies, land use designations, and planning guidelines for the ensuing activities of both the City Council and the Community Committees.

The City Plan would also oblige Council to declare its major programme intentions, whether they be infrastructure replacement, suburban expansion, Community Improvement Programs, Core Area Initiatives, or the implementation of other intergovernmental agreements. And it would require the City, prior to the Plan's adoption, to analyze and specify the implementation requirements of the Plan and to declare financial and budgetary intentions for implementing the Plan. These stated intentions are not, of course, to be enshrined in the Plan By-law such that changes in the City's Five Year Capital Estimates require amendments to the City Plans. The City Plan should only establish Council's priorities, general sequence, and perhaps percentage allocation of its resources without the detail of the Annual Estimates. At the same time, the Plan should identify the funds or other resources required of the Provincial and Federal Governments.

The City Plan should contain policy and programme statements on all major items—housing, renewal areas, the central business district, employment areas, the timing of development of transportation corridors and likely

changes in land use associated with them, transportation policy generally, proposals for environmental improvements, the sequence in which presently undeveloped areas of land will be serviced and developed, and the purposes of and special directions for development and a host of other relevant matters.

A City Plan of this expanded scope and improved depth makes unnecessary the preparation of "Community Plans", as they are currently described and required in the Act. The essential environmental qualities, municipal objectives, policy goals, and planning guidelines for the city's communities are to be provided in Council's overall City Plan. As the basic purposes of Community Plans will thus be satisfied through the mandatory Winnipeg City Plan, the Committee recommends the deletion of all references to Community Plans in the Act.

Finally, our recommendation on Local Plans, in the section that follows, yields a significant shift of authority from Council to the Community Committee level where the Community Committee will exercise considerable planning authority. This recommended shift amounts to a division of powers on the familiar Canadian constitutional model; we observe that history reveals that this model is most effective when the limits of authority at each level are most clearly prescribed. The prerequisite for moving local planning closer to residents and vesting authority in the Community Committees is clarity and coherence at the level of the City as a whole.

7.1 CONTENT AND APPROVAL OF PLANS

Recommendation 25 Revised Approval and Amendment Process for the Winnipeg City Plan

The Review Committee recommends that the Act be amended to provide the following:

City Council may review the existing City Plan and prepare amendments to the Winnipeg City Plan By-Law at any time. This right notwithstanding, Executive Committee should be required to submit to City Council at least annually its recommendations for changes, or for no changes, in the City Plan.

Council should be required to advise and consult with the Minister responsible on any proposed amendments to the City Plan upon first reading. The Minister should inform the Council in writing within 60 days of notification of first reading of any Provincial comments, concerns, or conditions of approval with respect to the proposed amendment(s). Public hearing(s) on the amendments would not commence prior to the Minister's response to City Council. Should the Minister not inform City Council of the Government's comments, concerns, or conditions within 60 days of notification, City Council would proceed to public hearing(s), second reading, and third reading of amendments to the Winnipeg City Plan without the approval of the Minister.

In the event that the Minister has informed Council of the Province's comments, concerns, or conditions of approval within the time specified, City Council would proceed immediately upon proper notice to public hearings. After the conclusion of public hearings and preparation of revisions and amendments, City Council would notify the Minister of second reading and request a formal statement of the Minister's comments, concerns, and/or condi-

*Earl A. Levin, "Review of Part XX: City of Winnipeg Act", unpublished paper, commissioned by The City of Winnipeg Act Review Committee, 1985.

tions of approval. City Council should provide at least 60 days between second and third readings for receipt of the Minister's statement.

The Minister would have 60 days after notification of City Council's third reading of an amendment to the City Plan By-Law to: a) approve the amendment, b) reject it, or c) substitute a new amendment in place of that given third reading by City Council.

In the latter case, the Minister should inform City Council of the Government's intention to impose a substitute amendment. In this event, the Minister would be obliged to follow the same City of Winnipeg Act requirements as apply to the City with respect to notification, consultation, advertising, and public hearings. Upon imposition by the Minister, such an amendment would be clearly designated as a "Province of Manitoba Amendment to the Winnipeg City Plan By-law".

The Minister should have the right to appoint a representative to participate fully, including presenting evidence and asking questions, at all public hearings on amendments to the Winnipeg City Plan.

Within one year of the promulgation of this amendment, but no later than January 1, 1988, the Lieutenant-Governor-in-Council must transmit to the City Council a document containing Provincial Land Use and Development Policies for the City of Winnipeg and the Winnipeg Region. Should this document be transmitted to City Council later than one year from promulgation of this amendment or January 1, 1988, and until such time as Cabinet transmits the document to City Council, City Council may make any and all amendments to the Winnipeg City Plan without the approval of the Minister.

The City Plan must be consistent with the official Provincial Land Use and Development Policies for the City of Winnipeg and the Winnipeg Region. City Council would therefore be required to amend the City Plan to bring the Plan forthwith into conformity with these policies. Should City Council not amend the Plan to the Minister's satisfaction, the Minister may amend the City Plan by imposing Province of Manitoba Amendments on the Winnipeg City Plan By-law.

The Government may also initiate a Province of Manitoba Amendment to the Winnipeg City Plan at any time. In this event, the Provincial Government would be obliged to follow the same notice and hearing procedures as above, at the Province's expense. The Government must also provide the City with the same rights to participate at its hearings as the Minister enjoys at the City's hearings.

References in the Act to forwarding of Plan amendments to the Municipal Board for hearing, report, and recommendation should be deleted.

All other procedural and due process provisions in the Act relative to the City Plan should be retained.

Discussion

Three principles underly the Review Committee's recommendations on City Plan approvals and amendments. They are:

1) The Provincial Government has a legitimate interest and may properly play a role in forming the policies and

plans that govern the development of the City of Winnipeg and the Winnipeg region;

2) If the Provincial Government does not wish to play that proper role, it should not be able to restrain the City from proceeding to prepare and adopt its own plans and policies and should not be able to intervene and alter the City's decisions at the last moment; and,

3) If the Provincial Government does intend to exercise its legitimate authority and pursue its urban planning objectives, it must publicly and explicitly state its intentions and participate throughout the process of amendment of the City Plan.

Provincial involvement in the City Plan is legitimized and necessitated by the fact that the Province is the level of government with ultimate responsibility for the way the City government operates and for the future of the City, and because many Provincial services and programs are inescapably parts of the urban service network.

The Province therefore has a strong vested interest and an understandable political concern in economical and efficient civic government. In addition to its broader political and provincial service concerns, it is inescapably involved because it shares with the City the joint financing of a number of important civic services.

While the Manitoba Government has delegated a large measure of responsibility for the provision of municipal government and local services to the City of Winnipeg, the Province retains the ultimate responsibility for the manner in which the powers so delegated are discharged. The City occupies an extremely important, clearly dominant, role in the Provincial economy and more than sixty percent of the Province's residents live in the City and its urban fringe.

In general, the primary emphases of the City's activities are on regulating land use and the provision of certain basic and traditional physical services. The City also provides a limited range of social and economic services such as health, welfare, libraries, recreation, and others. On the other hand, Provincial responsibilities are more pronounced in the broader fields of social, economic, employment, and educational services. The Province's presence in urban affairs is also felt when it initiates and/or finances a wide range of physical services, such as housing, transportation, and other infrastructure related projects and programs.

The future planning of the City needs to address not only issues relating to physical development and its associated services but also to social and human needs of the City at large and in its communities. It is clear, therefore, that a comprehensive City Plan requires the joint participation of both the City and the Province.

The Act recognizes this essential relationship between physical and social planning [sections 573(a) and 569(d)]. The Act contemplates, and common sense dictates, that physical and social planning must be integrated. The functional integration of Provincial and municipal services can only take place if both governments have the necessary input into the process as it develops.

Consequently it is the opinion of the Committee that it is not reasonable or appropriate for the Province to stand aside while the City Plan is being prepared and then at the final approval stages introduce its objections. A wide range of Provincial concerns need to be addressed during the various stages of the planning process.

The Committee realizes that there may be political obstacles to close planning collaboration between the Province and the City. We feel, however, that the overriding public interest requires that such collaboration take place and that fundamental planning issues be jointly resolved where the future of the City is at stake.

Our recommendations provide a mechanism for Provincial

Government involvement in the preparation of the City Plan from its inception so that the requirements and future needs of the major Provincial service departments involved in the urban area, Crown Corporations, and shared cost activities are properly taken into account in the preparation of the Plan. Indeed, we recommend that the Province accept specific obligations as conditions of retaining its approval authority over the City's principal planning activity.

There is a danger that the City Plan once adopted may be regarded as a job finished. The planning and urban development process, however, is dynamic and change is its main feature. Governments at all levels are typically slow to respond to change. Planners are not endowed with any superior insights with which to forecast the future; plans should be continually evaluated and revised in the light of changing circumstances. While the essential goals of the City Plan may have a certain durability, their application, priorities, timing and means of implementation should be subject to frequent review.

The Act's current requirement of Council review of the City Plan "at least once during each five year period" has not been honoured. Nor has the Province enforced its own provision. The Provincial Government's last amendment to section 572 (in 1981) provided that if Council failed to complete its review before December 1, 1983, its inaction would "not invalidate" the Development Plan or anything else in the Act.

Instead of this provision the Review Committee recommends that the Executive Committee be required to present its proposed amendments to the City Plan at least annually to Council. If the Executive Committee expressed the view that amendments were necessary, the process of presentation of proposed changes to Council, notification of the Minister, and public hearings would be set in motion. If the Executive Committee expressed the view that no amendments were necessary, it would so declare. In either case, a majority of Council could commence the amendment process or the Minister could set in motion the process whereby a Provincial Amendment could be imposed. In either event the public could judge how well its interests were being served and pinpoint responsibility for action or inaction.

7.1 CONTENT AND APPROVAL OF PLANS

Recommendation 26 *Special Area Plans*

The Review Committee recommends that the Act be amended to make provision for the adoption of Special Area Plans. This amendment should provide that City Council, and not Community Committees, be authorized to initiate and adopt plans for special areas, as defined and designated by Council. "Special areas" should be defined as those districts which, due to significance derived from their unique character or from their importance to the city as a whole, at present or in the future, require City Council's planning decision. The character and importance of a special area would be recognized in a Special Area Plan enacted by Council, upon the recommendation of Executive Committee.

Special areas should be designated as such in the Winnipeg City Plan By-law. Where Council has so designated a special area, it would be empowered to enact a Development Control Area Designation By-law (see sections 623 and following) for any part or all of a special area. This Development Control Area Designation By-law would remain in full force and effect until Council adopted a Special Area Plan By-law.

As part of a Special Area Plan By-law, City Council, prior to granting any other approvals, could require the submission of concept plans, or any other documentation, from owners and developers of property, could exercise design review powers over all applications and building permits, and could exercise other forms of design and development control as Council determines.

Special Area Plans must conform with the Winnipeg City Plan. No Local Plan could be prepared and adopted by a Community Committee for any area designated by Council as a Special Area. Community Committees, however, would be accorded special status with respect to the public hearings, plan review and environmental impact review processes specified in the Act.

While Community Committee input and participation would thus be guaranteed, the Executive Committee or its designated subcommittee would be the hearing body for zoning, subdivision, and other applications within special areas. City Council would be the final approval authority for all such applications, except as delegated to Executive Committee.

Discussion

Special area designation provides City Council and Executive Committee with an effective mechanism to retain land use and zoning control, to negotiate development agreements, to regulate building demolition, and to exercise development and design control over specific areas that are deemed to be of city-wide significance.

As examples, City Council might consider special area designation, and the adoption of a Special Area Plan By-law, for the following special areas: The Central Business District, the Heritage or Exchange District, river corridors and natural areas, Old St. Boniface, the CP Yards, the Forks, Osborne Village, the Assiniboine Forest area, Portage Avenue, the Arena/Stadium complex, the Pembina Highway corridor, undeveloped subdivision areas within the urban limit line, regional shopping centres, Historic St. Norbert, and others.

For many of these and other urban areas, Council may find that the City Plan is an effective enough instrument for achieving its city-wide objectives, without requiring Special Area Plan By-laws. Community Committees then would be responsible for consistently applying the City Plan in their areas and for efficiently and fairly exercising their planning, hearing, and approval powers, subject to Executive Committee review (see Recommendation 14).

At the same time the Review Committee felt the need to allow for a mechanism whereby Council at any time may withdraw special areas from the detailed control of Community Committees while maintaining a special status and guaranteeing input into the planning decisions for those areas for affected Community Committees.

7.1 CONTENT AND APPROVAL OF PLANS

Recommendation 27 *Local Plans*

The Review Committee recommends that sections 579 to 597 of the Act be amended and replaced by new sections on "Local Plans". All references to "Community Plans" and "Action Area Plans" should be deleted.

A Local Plan should be defined to include, but not be limited to:

- A demonstration that the content of the Local Plan is consistent with the Winnipeg City Plan and any Special Area Plans in effect;
- A detailed policy and land use designations for all lands covered by the Plan;
- Recommendations for draft amendments to the zoning by-law (that is, specific zoning changes) and to other city by-laws as required;
- The integrated programme commitments of the Community Committee and City Council for the implementation of the Local Plan;
- The specific financial and other requirements for Plan implementation;
- The detailed budgetary intentions of the Community Committee;
- An implementation strategy and schedule.

Local Plans should be adopted by resolution of a Community Committee for any area of any size within a Community, as the Community Committee may determine. Where a Local Plan area includes lands in more than one community, the Community Committees having jurisdiction would be required to concur on the scope and content of the Local Plan.

Community Committees should initiate, prepare and adopt Local Plans subject to the following requirements and procedures:

1) Local Plans must conform with the Winnipeg City Plan and relevant Special Area Plans in effect;

2) The Community Committee must submit copies of a proposed Local Plan, and/or amendments thereto to the Executive Committee, prior to any formal public hearings. After receiving the recommendations of Executive Committee, within 45 days of receipt of the proposed Local Plan, Council must notify the Community Committee within 45 days of any Council comments, concerns, or conditions with respect to approval. Should the Council not notify the Community Committee before 45 days have expired, the Community Committee may proceed to public hearing(s) and approval of the Local Plan without further reference to or review by the Council;

3) Where the Council has notified the Community Committee within the time specified, the Executive Committee will review proposed Local Plans prior to third reading of the Plan Resolution by the Community Committee to ensure that the proposed Local Plan is not in conflict with the City Plan, Special Area Plans, city by-laws, or Council policies and that the Community Committee acted with proper procedures and under the rule of fairness. The Executive Committee will notify the Community Committee within 30 days in the event of a conflict or concern, in which case the Community Committee must remove or amend the non-conforming portions of the Local Plan or remedy the procedural problems. Should the Community Committee not do so, City Council may, upon the recommendation of the Executive Committee, remove the non-conforming portion and may substitute for it a "Winnipeg City Council Amendment", clearly designated as such in the Local Plan.

4) The Community Committee resolution adopting a Local Plan will have the full force and effect of a by-law of City Council.

Discussion

The Review Committee recommends that Community Committees be empowered to adopt Local Plans by resolution within the framework of the Winnipeg City Plan and Special Area Plans as adopted by City Council. Only where the Executive Committee determines that a Local Plan is in conflict with the City Plan or any Special Area Plans in force, or with by-laws and policies of Council, or where proper procedures and the rule of fairness have been violated, may City Council overturn part or all of a Local Plan, require the Community Committee to submit acceptable amendments, or, in extraordinary circumstances, impose its own Local Plan provisions on the Community Committee.

The principle underlying the proposed Local Plan approval process is analogous to that recommended earlier with respect to the City Plan (see Recommendation 25). We support the principle of delegation of authority and responsibility to the lowest appropriate level of government. At the same time, we find it imperative to provide for continuing oversight by the more senior level and to allow the more senior level scope for exercise of its ultimate authority and responsibility to the wider public interest.

In recommending the removal of the Community Plan and Action Area Plan sections of the Act, the Committee believes that its recommendations with respect to the Winnipeg City Plan (Recommendation 25), Special Area Plans (Recommendation 26), and particularly this recommendation on Local Plans provide the appropriate and necessary substitutes.

The elements of the current Community Plan provisions in the Act which have practical significance will be addressed by the expanded and more detailed requirements of the Winnipeg City Plan. The City Plan must provide the City's objectives, policies, and planning targets for all or the most important parts of community areas. The City Plan or a Council by-law may at the same time remove from a Local Plan and consequently from a Community Committee's planning jurisdiction certain "special areas" of city-wide importance.

Beyond those items of city-wide interest and jurisdiction, on which the City must declare itself in the City Plan, responsibility for the remaining items of more local community interest and concern should be delegated downwards in the system. We expect that local planning initiatives and political commitments are more likely to emerge at the community and neighbourhood levels. When that initiative and that political will are demonstrated, all the needed resources and support of the civic administration can and should be brought to bear. In other words, we recommend that Local Plans containing the more detailed content of what might have been comprehensive Community Plans and particularly the specifics of Action Area Plans in the current Act, be placed at the discretion and under the authority of Community Committees, rather than City Council.

Local Plans put flesh on the basic skeleton of the City Plan. They identify in a more tangible way the direction of neighbourhood development and the contribution of distinctive neighbourhoods to the overall quality of the City. This is the level at which the benefits of the planning process can best be brought home to Winnipeg residents.

The Community Committees will decide whether or not community sub-areas or neighbourhoods will require Local Plans.

As the City's communities and neighbourhoods do not face similar planning problems, their Local Plans will vary in form and substance. Many of the newer areas of the City need only be protected against an intrusion of incompatible land uses. A Local Plan in such areas might be mainly a commitment to enact and/or enforce by-laws that preserve what already exists. Other communities

face issues of varying severity and may need both preservation or protection and substantial rehabilitation or redevelopment, as the case may be.

The core area of the city presents a seemingly endless catalogue of physical, social, and environmental problems which call for continued or enhanced efforts by all levels of government. Preparing, adopting, and implementing Local Plans provide effective and dynamic vehicles for neighbourhoods to address their needs in meaningful terms. The joint involvement of local residents and their Councillors provide commitment and stability.

The Committee believes that the Neighbourhood Improvement Program/Community Improvement Program experience in Winnipeg is illustrative of the scale and scope of Local Plans, and what they could accomplish. The size of the planning area is not artificially determined beforehand; it emerges on the basis of need, practicality, resident consciousness, and implementation requirements. A Local Plan could encompass a very small neighbourhood enclave or a larger identifiable residential district.

This recommendation is not a departure from the best of recent practice. Rather it is an attempt to consolidate and renew the best of Winnipeg's planning process and to reinforce it with an improved statutory basis, defined procedures, and clearer, more visible responsibilities.

The Committee agrees that the elected officials and residents of the communities involved are those most concerned, and most able, to make informed judgements as to the need for and content of their local plans. We also recognize the need to focus a city-wide perspective on local plans, to ensure that they do not contradict the City Plan or general municipal policy, and to provide a method of Executive Committee review.

7.1 CONTENT AND APPROVAL OF PLANS

Recommendation 28 *Development Control*

The Review Committee recommends that the Act be amended to provide that a Development Control Area Designation By-law may be enacted by City Council for any area in the city, and not solely for those areas located in a community "with respect to which there is an approved community plan" [section 626(1)].

Should such a development control by-law be passed, however, a Special Area Plan must be prepared and adopted for that area by Council within six months. Until such a Special Area Plan by-law is passed, no development approvals within the designated area may be granted. Should a Special Area Plan By-law not be adopted within six months, the Development Control Area By-law will cease to be in force and effect.

Discussion:

To our knowledge, a Development Control Area Designation By-law has never been enacted by City Council. The major reason is probably that an approved community plan is a prerequisite to the passage of a Development Control By-law. Only for West St. Paul has a community plan been enacted, and even there the City has not exercised its development control powers.

The amendment recommended here permits greater City Council intervention and control with respect to development. Rather than requiring that an approved Local Plan be in force before development control can be exercised,

we recommend that the City be given greater discretion in this area, on condition that a special area designation and plan be adopted for the area within six months. This provides the City with a tool to declare a moratorium on new development agreements, demolition permits, building permits, or other instruments of change until such a Special Area Plan By-law is adopted.

7.2 ZONING AND DEVELOPMENT APPROVALS

[The next four recommendations are presented as a group with discussion following the last.]

Recommendation 29 *Establishing Grounds in the Act for Approval of Zoning and Subdivision Applications*

The Review Committee recommends that the Act require the appropriate approving authority to make a specific finding before it approves a rezoning or subdivision application.

The Committee suggests that this finding be that the benefits, to the community, or the City as a whole outweigh the adverse effects on the community and on the City, which would result from approval of the application.

To assist the approving authority in making such a finding, the applicant should be required to submit documentation to that effect, including an Environmental Impact Statement (see Recommendation 35).

Recommendation 30 *Establishing Responsibility for Zoning and Subdivision Hearings*

The Review Committee recommends that any person who seeks an amendment to the zoning by-law (that is, a zoning change or rezoning, but not a text amendment) or an approval to subdivide must make application to the relevant Community Committee.

If the land for which a rezoning application is made lies, either entirely or in part, within a designated special area (see Recommendation 26), the application will be referred to the Executive Committee, or to its designated subcommittee, which will conduct the public hearing. In this case, the relevant Community Committee(s) should be able to present evidence, to examine other parties, to make recommendations, and to require by resolution that an Environmental Impact Assessment be prepared (see Recommendation 35).

Where the subject land is not covered by a Special Area Plan By-law adopted by City Council, the relevant Community Committee will hold a public hearing, after proper notice has been given. (Changes in notification and posting procedures are proposed elsewhere [see Recommendation 34]). During the hearing the Community Committee will safeguard the right of all interested parties to participate fully. Any interested party will have the right to ask questions, through the hearing chairperson, of other interested parties.

The Executive Committee should establish detailed procedures for the conduct of public hearings by Community Committees. These procedures must ensure that no interested party has been denied the

opportunity to make full representation and response, and that the Committee has not violated due process.

The decision of the Community Committee will become final unless the Executive Committee decides that there will be a new hearing.

Recommendation 31 *Executive Committee to Decide Whether to Order a New Zoning or Subdivision Hearing*

The Review Committee recommends that provision be made to allow the Executive Committee to order that a new hearing on a zoning or subdivision application be held under two circumstances:

Initiation by a Private Party

Any person who appeared as an interested party at the original Community Committee hearing may apply within 15 days to the Executive Committee to request a new hearing. The application must be in writing and may also contain a statutory declaration concerning allegations of facts.

Having received an application, the Executive Committee may order a new hearing if it finds:

(a) That there are new facts available that were not heard at the original hearing that are important for the disposition of the case—in more legal terms, that there is available new relevant evidence that so changes the situation as to call for a new hearing; or

(b) That the Community Committee conducted the hearing in such an unfair or biased way that the person applying for a new hearing was placed in a prejudiced position—in more legal terms, that the Community Committee denied natural justice or breached its duty of fairness to the person; or

(c) That the decision of the Community Committee is contrary to the City Plan, Special Area Plan, Local Plan, Zoning By-law, or policy of Council; or

(d) That the effect of the decision of the Community Committee is of such city-wide significance as ultimately to require a decision by Council.

After receiving the written application, the Executive Committee must send copies of the application to all interested parties who made representations to the Community Committee, and allow for written argument and/or statutory declarations to be submitted by those parties within 15 days. After receipt of these arguments and/or statutory declarations, the Executive Committee must send copies of them to the applicant and provide the applicant with a further 15 days to respond in writing. The Executive Committee may hold a public hearing to hear evidence and argument, but it need not do so.

The Executive Committee will decide within 15 days of the public hearing (if held) or the expiry of the 15 day period allowed for the applicant to respond whether there will be another hearing and issue an order to that effect. Depending on whether a Local Plan is in effect, the Executive Committee's order will indicate whether the Community Committee or the Executive Committee or its designated subcommittee will hold the new hearing (see Recommendation 32).

Initiation by Executive Committee

The Executive Committee may, of its own motion, order a new hearing only on the basis of ground (c) or (d) above. The Executive Committee must take such action within 20 days of the receipt of the decision of the Community Committee.

Recommendation 32 *Determining Who Will Conduct New Zoning or Subdivision Hearings*

The Review Committee recommends that the Act prescribe the following two sequences if the Executive Committee decides that a new hearing is necessary.

If a Local Plan is in effect the new hearing will be held by the Community Committee. If there is no Local Plan in effect, then the Executive Committee or its designated subcommittee will hold the new hearing.

Where a Local Plan is in Effect

If there is a Local Plan in effect that applies to the land which is the subject matter of the application for amendment to the zoning by-law, then the Executive Committee may order a new hearing, which will be held by the Community Committee. The order must be based on one or more of the grounds a) through d) in the previous section (see Recommendation 31).

If the Executive Committee finds that grounds (a) and/or (b) apply, it may require the Community Committee to hear the new evidence or to provide an adequate hearing to all parties. After the new hearing and decision by the Community Committee, the Executive Committee may still order a new hearing based on grounds (a) through (d).

If the Executive Committee finds that grounds (c) and/or (d) apply, then it may require the Community Committee to initiate an amendment to the Local Plan if the Community Committee wishes to proceed with the amendment to the zoning by-law.

Where no Local Plan is in Effect

If the Executive Committee finds that only grounds (a) and/or (b) apply, it must require the Community Committee to hear the new evidence or to provide an adequate hearing to all parties. After the new hearing and decision by the Community Committee, the Executive Committee may still order a new hearing based on grounds (a) through (d).

If Executive Committee finds that at any time grounds (c) and/or (d) apply, then the Executive Committee itself or its designated subcommittee will hold any new hearing ordered. The designated subcommittee will report its findings and recommendations to the Executive Committee, which will be responsible for making a decision and a subsequent recommendation to Council.

The Executive Committee or its designated subcommittee must provide an opportunity to submit arguments to all those who made representation to the Community Committee. Whether further evidence will be heard—either through written statements, oral testimony or statutory declarations—will

be at the discretion of the Executive Committee.

No member of the Executive Committee, or its designated subcommittee, who took part in the decision of the Community Committee at the original hearing, may take part in the decision whether to conduct a new hearing. However, a Councillor excluded from a new hearing body for this reason may make representation to the Executive Committee or designated subcommittee as an interested party.

In order to approve any amendment to the Zoning By-law, Council must make a finding that the benefits to the City as a whole outweigh any adverse effects to the community or to the City.

Discussion

Currently, applications are heard at the Community Committee, and the Community Committee recommendation passes formally and routinely through the multiple levels of Standing Committee, Executive Policy Committee, and finally to Council itself for passage of a by-law amendment. Changes in the recommendation may occur at any point along this journey. The file that goes forward consists of certain documents including the application itself, and the planner's report, as well as the Community Committee summary of what was said at the Community Committee hearing. A tape-recording is made of the hearing and is available to anyone who participated at the hearing. If there is a discrepancy between what went on at the hearing and the summary, court proceedings have to be initiated to stop the various committees from hearing the recommendations of the Community Committee. This is a cumbersome process. Even if there is no opposition, the file must work its way up the system; if there is opposition, the points of view of the various intervenors—whether for or against the application—at the Community Committee level are not heard by other committees, who must rely on a summary which cannot convey the complexity of emotions and ideas that are often presented at these hearings. Neither applicant nor opponent are permitted to pursue their interests beyond the Community Committee stage.

The Review Committee believes that the grounds and procedures proposed here offer the benefits of improving the predictability and fairness of the zoning and subdivision hearing process, and also identify more clearly who is responsible for zoning and subdivision decisions. We believe that the authority to make those decisions should be conditional upon accepting the responsibility for planning; in other words, we base our suggestions on the principle that those responsible for initiating and legislating the most detailed plan should be those able to implement the plan—through the tools of zoning, subdivision, local expenditures (see Recommendation 15), and any other means provided.

We believe that the authority to make final zoning and subdivision approval decisions, subject to limited review, will provide Community Committees with sufficient incentive to prepare Local Plans as needed. Once those plans are approved by Council, zoning and subdivision matters within the neighbourhoods covered will typically not be the concern of Council or the Executive Committee. Thus even if the majority of other Councillors might wish approval of a rezoning or subdivision application, for example, the Community Committee could reject the application on specific grounds as specified in the Act.

The only way that the Executive Committee could overturn a Community Committee decision in such a case would be to declare the decision in conflict with a Council by-law or policy, or to initiate a new policy declaration to deal with the situation, or to propose amendments to either

the Zoning By-law or to the City Plan, and so require that the Local Plan be brought into conformity. This form of city-local balance is consistent with our principles of isolating accountability and retaining the ultimate authority in the hands of City Council, if it declares any matter to be of city-wide significance. Thus, while the proposed system gives greater scope and authority to Community Committees than is currently available, it also protects the interests of the City as a whole and reinforces the new influence and leadership of the Executive Committee.

The Review Committee heard a number of complaints from residents about the zoning hearing and appeal processes. There appears to be misapprehension among residents that the Community Committee, on hearing an application, makes a decision, which may be "appealed" to a Standing Committee, then to the Executive Policy Committee and finally to City Council. The fact of the matter is that the Act presently mandates City Council to make the only decision on zoning changes and subdivision approvals. Each Committee, therefore, only makes a recommendation, not a decision, and succeeding committees only review (and may revise) that recommendation but they do not hold an appeal hearing. This arrangement pertains since a zoning change is necessarily an amendment to a zoning by-law and the Act requires that only Council may amend a by-law. There is no appeal from such a decision to amend a by-law. The only remedy lies in an application to the courts to quash the amendment.

The major problem identified by residents with this process was that interested parties are not permitted to speak at the Standing Committee stage. Our recommendations address this situation, which we believe is inequitable. We suggest that all interested parties be given equal rights to advance either oral or written arguments that they were denied natural justice, that the Committee should consider new relevant evidence, or that it should conduct a new hearing on other specified grounds.

The Committee heard allegations of political deals, that a Councillor may change his or her position and vote differently at the Community Committee than at Council. The Review Committee cannot fully address this complaint or determine the extent to which it is valid. There may well be excellent reasons for Councillors changing their minds in individual cases. The electors ultimately are the only judges of the propriety of the political behaviour of their municipal representatives. What we have tried to achieve, nevertheless, is a more visible and fair system. We recommend, therefore, that no member of the Executive Committee, or its designated subcommittee, who took part in the decision of the Community Committee at the original hearing, may take part in the decision to conduct a new hearing.

Our proposals will cause some significant alterations in existing practices and procedures but we believe this method, while on the surface somewhat complicated, is in fact a simplification and improvement of the zoning hearing and decision process.

While it will certainly be possible for the Executive Committee to create a subcommittee similar to the Committee on Environment to hear issues relating to zoning changes the subcommittee's procedures will be determined by the Executive Committee. The subcommittee's report and findings will be submitted to the Executive Committee (consistent with Recommendations 14 and 15 concerning delegation of authority to committees of Council) and the Executive Committee will submit its recommendations to Council.

The fact that there is no appeal of zoning change decisions except to the courts and only for review is an even more ironic and unsatisfactory situation since much more minor variance and conditional use orders, which are made at the Community Committee level, may be appealed to the

Variance and Conditional Use Committee at present. Our suggested system of decision by Community Committee, and review by Executive Committee, should generally work more smoothly and quickly, and produce more certainty and a greater sense of fair play.

Where the Act now offers no criteria, tests, or guidance for Councillors to use in their rezoning and subdivision decisions, we recommend new statutory provisions to spell them out. Once again, the current situation is more than ironic, since the Act contains four such tests (not necessarily satisfactory ones) for variance decisions [section 621(3)]. These involve (a) injurious and unnecessary affectation of on property or rights, (b) defeat of the intent and purpose of Council plan or by-law, (c) no substantial adverse effect on the amenity or convenience of adjoining land use or adjacent area, and (d) the minimum variance necessary to relieve against the by-law's injurious and unnecessary affectation.

Perhaps the most significant change proposed here deals indirectly with property rights. In our view, the onus should be on the applicant for zoning and subdivision approval to demonstrate to the satisfaction of the Councillors that the approval sought will result in a net benefit to the community or the City.

The Review Committee strongly believes that the more significant property right lies in the peaceful enjoyment of real property at the existing land-use and existing zoning classification, not whatever land use, subdivision or zoning classification might be applied for. Put differently, no applicant has a prior right, greater than the rights of the whole community, to stability and predictability. Similarly, no owner of property has a right to upzone unless the City can show why that owner should not do so. We would rather the reverse situation prevailed. We believe that the City Council and/or Community Committee, as the case dictates, must be persuaded by the applicant that a change is in the best interests of the City and the community.

7.2 ZONING AND DEVELOPMENT APPROVALS

Recommendation 33 *Criteria for Zoning Changes and Zoning Variations, and Amalgamation of Zoning By-laws*

The Review Committee recommends that the Act be amended to include criteria to be used to determine what constitutes a zoning change and what constitutes a zoning variation.

The Review Committee further recommends that the Province, in consultation with the City, establish a deadline for the City to amalgamate all zoning by-laws into one by-law.

Discussion

The Review Committee believes such a distinction is particularly important in light of our recommendation that Community Committees be given sole jurisdiction over final variance approvals (see Recommendation 9). A clear distinction between variances and zoning changes is, perhaps, a prerequisite to such delegation of authority.

During our hearings, and in other submissions, the Committee received several representations on this matter. As one brief pointed out,

there are no criteria contained in by-law or statute to assist in determining what constitutes a zoning change and what constitutes a zoning variance. We feel that this lack of definition leaves all the advantage with the City and the individual citizen has no means of knowing what the rules are because, essentially there are none.*

It was further drawn to our attention that in 1972-73 City Council considered some simple guidelines to distinguish variances from rezonings, but only received its joint report from the Commissioner of Environment and Director of Planning as information. Since that time, no criteria or guidelines have ever been embodied in a by-law of the City. It would appear, therefore, that either a specific amendment to the Act should be made or a statutory obligation should be created to require the City to adopt a by-law dealing with this matter. The Committee prefers the first approach.

The Committee has not had the opportunity, however, to research the issue sufficiently or to suggest specific wording for the Act. We support the City's former distinction between a rezoning (dealing with changes in population densities, lot area requirements resulting from subdivision, and land-use "characteristics"), and a variation (involving "simple changes" consistent with existing zoning and not involving changes in density, lot area, or land-use characteristics).

We also believe, however, that new situations and complexities have emerged over the years, for example, the place of condominiums within R1 districts, such that a new comprehensive examination is in order. Finally, we suggest strongly that any criteria established should contain a clear and unequivocal provision that in the event of any doubt as to whether a zoning application should be considered as a change or a variation, it must be considered as one for rezoning.

Alleged abuses of zoning procedures have been reported to the Committee in cases where fairly significant zoning changes have been requested and approved through the variance procedure. Since this procedure is considerably shorter, easier, and less publicized than the rezoning process, such applications may result in a distinct advantage for the proponent.

Finally, the Committee considers it fundamental that the greatest amount of clarity in the law be achieved. All residents of the City must be confident that they are being treated fairly and that the rules apply equally to all. The establishment of definitions and criteria, such as those suggested in this section, is necessary to consolidate an open and fair relationship between the City and its residents.

The City of Winnipeg currently has a number of different zoning by-laws, each covering a certain section of the City. They differ in subtle but important ways—most particularly in the definition of zoning designations. The Committee suggests that, 15 years after the establishment of Unicity, all zoning by-laws within the City be made consistent and be consolidated. This is a chaotic and unfair situation, making it impossible for the average citizen to understand his or her rights. Carry-overs from pre-Unicity days, these by-laws often use identical symbols, such as R-3 or C-2; but upon careful reading, those designations may have different detailed definitions.

*M.J. Mouser and J.R.C. Graydon, "Submission to The City of Winnipeg Act Review Committee", The City of Winnipeg Act Review Committee, *Public Submissions and Transcripts*, Volume IX (March 28, 1985), p.1197.

7.2 ZONING AND DEVELOPMENT APPROVALS

Recommendation 34 *Improved Zoning, Subdivision, and Development-Related Notices and Advertising*

The Review Committee recommends that the Act be amended to strengthen the requirements for informing the public, prior to public hearings, of applications for rezonings, subdivisions, conditional uses, zoning variations, and other development approvals, as follows:

1) The City should be required to mail or deliver a notice, describing in non-technical language the nature, location, purpose, and implications of an application for the above approvals, to all potentially affected residents and owners of property within a specified distance of the lands that are the subject of the application, and to all *bona fide* organizations within the community that formally state their interest in receiving them.

2) The City should be required to publish a notice describing in non-technical language the nature, location, purpose, and implications of an application for rezoning, subdivision, or development agreement in a newspaper of general circulation for two successive weeks prior to public hearing. Other media, such as community access and information television, should also be used as deemed appropriate.

3) The City should be required to post notices describing in non-technical language the nature, location, purpose, and implications of the above applications, which should:

- be larger than currently provided to facilitate public notice, readability, and the expanded information required;
- be replaced as soon as possible if they are removed or become illegible;
- be located in prominent places as appropriate along streets bordering the subject property, at the nearest and busiest pedestrian intersections, and at transit stops and bus shelters;
- include a statement informing members of the public of their rights to appear in support or opposition, whether the hearing to be held is final or subject to review and/or appeal and by whom, and their rights with respect to such review and/or appeal.

The Act should provide that the absence of a posted notice or mailed or delivered notice is not a reason for disallowing a hearing if the City has made reasonable efforts to replace missing notices or to mail or deliver notices to the persons described in paragraph 1) above.

Discussion

The Review Committee believes that the relatively simple measures recommended here would, at only marginal additional cost, eliminate many of the complaints that residents brought before us.

Some of the most important decisions (especially to residents affected) made by Community Committees and Council are those concerning zoning and related matters. We consider their order of importance, in general, to be:

rezonings, subdivisions, development agreements, conditional uses, and variations. Our suggestions for improving communications on these items are geared to their relative importance.

We believe that residents and owners of potentially affected properties within the immediate proximity of lands for which applications have been filed, and that *bona fide* community organizations, deserve the highest level of notification—mailed or direct delivery. Beyond that, and since such matters are of importance to a wider audience, such applications should also be publicized through newspaper advertising, other media as appropriate and available, and posted notices.

At present, only posted notices (and no public newspaper advertising) are required for variations. As a means of informing the public, the current notices are in our view quite inadequate. They are too small, too uninformative, and often poorly placed or missing. Most important, both posted and published notices currently leave the reader with very little or no knowledge of what the application is about, why it is made, and what importance it has for the City or particular neighbourhood. These shortcomings can and must be corrected.

Especially with respect to the implications of the application under consideration, the notice should not only describe the stated intention of the applicant, but also the possible future effects of approval. In other words, approval of one use, which may be totally inoffensive to neighbours, could result in future uses of which they may be unaware and would not approve. The Committee desires to improve the knowledge of the public as to future permitted uses implied in a current approval.

The notice provisions recommended here are proven and practical and, we believe, useful, for both the City and residents, in resolving technical approval issues. We suggest the City consider and implement many of the techniques and procedures used by the City of Ottawa in greatly improving the quality and utility of information provided to its residents. The use of communication linkages provided by community, neighbourhood, and special interest organizations in that city is a particularly effective device.

7.3 ENVIRONMENTAL IMPACT REVIEW

Recommendation 35 *Environmental Impact Review Process*

The Review Committee recommends that the Act require that any applicant for a zoning change, subdivision approval, conditional use, development agreement, or demolition permit, file an Environmental Impact Statement as part of the permanent application record, available for inspection prior to any public hearings.

This Environmental Impact Statement (EIS) must specify the nature and magnitude of all negative and positive impacts on the physical, social, and economic environment that are, in the applicant's judgment, likely to result from the proposed change. In addition, the applicant must state the measures to be undertaken to mitigate and/or compensate for negative impacts, as well as to enhance and/or maximize positive benefits of the proposed project.

The Act should require that an EIS be submitted by all applicants, whether they be private, non-profit, or governmental. In the case of a municipal public work, the Executive Committee should be respon-

sible for submission of an Environmental Impact Statement for that work. This statement must be transmitted to Council and each Community Committee at least three months prior to commencement of work.

Either prior to, or following, a public hearing or meeting on an application for approval, one-third or more of the members of the hearing and approving body (that is, Community Committee, Executive Committee, or City Council, as the case may be) may require that a full Environmental Impact Assessment (EIA) be prepared and submitted by the civic administration. The EIA must be available to all Councillors and other parties-at-interest at least 30 days before a decision on the application may be made.

In the case of a municipal public work, at least one-third of the members of a Community Committee whose area may be affected by that work may require that an EIA be prepared. In that event, the EIA should be prepared independently of the civic administration by competent professionals chosen by a Select Committee of City Council established by the Presiding Officer for that purpose.

Guidelines and checklists for the preparation of Environmental Impact Statements and Environmental Impact Assessments should be prepared by Executive Committee and approved by City Council. These documents should be made available to all applicants, Community Committees, Councillors, and other parties-at-interest that request them.

Additional public hearings on an EIA may be held at the discretion of the designated approving authority.

The adequacy of either an EIS or an EIA would not be reviewable by the Courts.

Discussion

The Review Committee believes that the mechanism of environmental impact review is an appropriate device useful to governments in making decisions and to residents in understanding proposals and in participating in the decision-making process. We have sought a method by which this valuable concept could be viably reinserted in the City of Winnipeg Act. We believe we have found a method that is practical.

We suggest a two-stage process. The first mandatory stage is the application or initiating stage, in which the proponent will be required to state the consequences of the action being proposed. In effect, this statement of the physical, social, and economic impacts likely to result constitutes the supporting evidence required for approval. The Committee has recommended that a Community Committee or the Executive Committee, as appropriate to the particular case, should be required to decide if a zoning, subdivision, or other development application will be approved based on its finding "that the benefits to the community and/or the City as a whole outweigh the adverse effects to the community and to the City" (see Recommendation 29). The primary pieces of evidence on which the hearing and approval authority will make such a finding will be the applicant's Environmental Impact Statement, the civic administration's report on the merits of that EIS, and other submissions provided to the public hearing body.

The substance and scope of the EIS is to be geared to the significance, magnitude, and controversial nature of the application. A simple, non-contentious lot split, for

example, may only require a single-paragraph EIS. On the other hand, a rezoning application for a major shopping centre, residential subdivision, or commercial facility may well justify a more elaborate and well-documented Statement. Essentially, the more complete and persuasive the EIS, within the context of the particular application, the less chance that a detailed EIA will be required.

The same process should apply to a major municipal work. The Executive Committee, in its recommendations to Council and to affected Community Committees, would be obliged to file an EIS. This Statement in effect makes Executive Committee's case for proceeding with the work, whether it be a new bridge, major arterial road, public transit system, or parking garage. Should the EIS be complete enough and provide sufficient information to Councillors, it is unlikely that an EIA will be requested.

The second but optional stage in the environmental review process is detailed assessment. The Committee suggests that a one-third minority of Councillors who feel the issue is of sufficient importance and that the information provided in the EIS is insufficient for their decision may require the preparation of an EIA. In a four-member Community Committee, at least two Councillors must vote to require an EIA. In a 25-member City Council (24 Councillors plus the Mayor), nine members would be sufficient to require an EIA.

We suggest that this right of the minority to require production of more detailed information prior to a decision will not be used capriciously. It is certainly available to Councillors desiring a delaying tactic, but as any tactic it cannot be overused without risking a loss of credibility. The utility and importance of an EIA for political decision-making, in our opinion, far outweigh the potential for abuse.

We submit our recommendations for an improved environmental impact review process with the intention that the burden of proof be placed more squarely on the applicant or initiator (in the case of the City itself, for instance). The review and analysis of consequences thus become an integral part of the initial application and hearing process. Only after consideration of the applicant's submission, the administration's reports, and submissions and public hearing presentations of others will it be determined whether a more complete assessment of impacts is in order.

We believe that this determination is most properly to be placed in the hands of a substantial minority of Councillors who, in response to the requests of affected parties, conclude that more information is needed, whether a private application is the subject or a public work of the city government itself. The Courts would have no part in determining the adequacy of either an EIS or an EIA: political, not legal, judgement would prevail.

Section 653(1) of the original Unicity Act of 1971 said that the Executive Policy Committee should:

- review every proposal for the undertaking by the City of a public work which may significantly affect the quality of the human environment and shall report to the Council before such work is recommended to Council on,
 - (a) the environmental impact of the proposed work;
 - (b) any adverse environmental effects which cannot be avoided should the work be undertaken; and
 - (c) alternatives to the proposed action.

This section was extensively discussed by the Manitoba Court of Appeal in a judgement quoted by our predecessor, the Taraska Committee, on Page 121 of its Report. It is sufficient to say that this section invited extensive court challenges to decisions made by City Council, in that a resident could challenge whether a report was required (is this "a public work which may significantly affect the

quality of the human environment?") and the adequacy of the Executive Policy Committee's report.

The Taraska Committee recommended the deletion of section 653(1) because it believed, as do we, that there ought to be no "difficulties touching upon the autonomy of the Council in matters of civic policy and the power of the courts to impede the carrying out of public works approved by City Council."*

With our recommendation we hope to eliminate the particular legal deficiencies of the earlier section. All works, whether public or private, would have to have an EIS prepared. An EIA would be prepared only if required. Thus there is no question about whether a report is required.

In addition, the adequacy of either report will not be open to challenge in the Courts. This must be clearly set out in the Act. If the City Council is content to make a decision based upon an EIA that is perceived to be inadequate, that is its political decision and one for which it is answerable at the ballot box.

The Taraska Committee said:

We agree with the principle of reviewing the probable impact of proposed development and we believe that such a review should be an integral part of the systematic assessment of development proposals, in both the public and the private sector. It is our opinion, however, that the requirement for such a review should not be located in The City of Winnipeg Act...but would more appropriately be located in the Greater Winnipeg Development Plan than in The City of Winnipeg Act.**

The Provincial Government amended the Act in 1977 to remove the requirement to produce Environmental Impact Reports.

While it would seem that the need to examine the economic, social and environmental aspects of major policy and development decisions would be recognized as an obvious and necessary step in the political decision-making process at the City Hall, the recommendations of the Taraska Committee have not been acted on. The City has produced a draft development plan (Plan Winnipeg) without providing for a requirement for impact assessments as recommended. Since the voluntary approach recommended by the Taraska Committee has not worked, the Committee believes that a clear requirement in the Act is needed.

7.4 URBAN ENVIRONMENT

Recommendation 36 *Review of Jurisdiction and Coordination of Regulatory Powers over Urban Waterways*

The Review Committee recommends that the Federal, Provincial and Municipal governments review and rationalize their respective powers over rivers and streams within the City of Winnipeg and the Winnipeg region.

We further recommend that a Provincial-Municipal coordination mechanism be put in place to provide greater efficiency and effectiveness in decision-making and administration of waterway regulations.

Discussion

During our review, the Committee heard from a number of informed individuals involved in waterway matters. They cited cases in which the "red tape" of applications, negotiations, referrals, and "preliminary" approvals hampered their ability to get things done on or adjacent to the City's waterways. These people and others, in effect, are demanding that all three levels of government "get their acts together" to properly protect, manage, and regulate the riverine environment.

This need has been apparent for quite some time. Both the Municipal and Provincial governments have initiated reviews of their waterway and waterfront jurisdictions and their governing statutes, including **The City of Winnipeg Act, The Rivers and Streams Act**, and others. The Committee suggests that upon completion of these studies, Provincial-Municipal discussions be held and the Provincial government move swiftly to make the necessary amendments and revisions to relevant legislation.

Just prior to completion of this Report, the Review Committee received a copy of the Rivers and Streams Committee's "Consultant Study for Submission to Winnipeg City Council Regarding the Role of the Rivers and Streams Authority No. 1."

We have made a preliminary review of the document and we agree with many of the sentiments expressed. We find, however, that it contains two major shortcomings.

First, we reject the suggestion that a new "Bipartite Management Agency", as recommended by the Rivers and Streams Committee, might exercise by-law powers in place of City Council (see Recommendation 12). Second, we believe such an Agency should not have both approval authority and a development mandate (see Recommendation 38).

The Committee believes the time is ripe for establishing a coherent statutory framework and regulatory regime and that the City's power to regulate rivers and streams should be expanded (see Recommendation 37). The sorting out of jurisdictional authority should be accompanied by the creation of an efficient mechanism for intergovernmental coordination at both the political and bureaucratic levels.

The Committee emphasizes the need to coordinate effectively the activities of the large number of departments and agencies of the three levels of government sharing responsibilities for Winnipeg's rivers and streams. The improved clarity and efficiency of an integrated regulatory regime is a prerequisite to encourage new and creative initiatives by public, private, and voluntary agencies for the preservation, conservation, development, and public use of the City's waterways and waterfronts (see Recommendation 38).

It must also be recognized that an improved statutory basis, enhanced municipal powers, and smooth coordination among Municipal, Provincial, and Federal officials are, in themselves, not guarantees that governments will exercise their authority well. As in many such areas of urban policy, a significant degree of political leadership and commitment is required to apply the available regulatory tools for the long-term improvement of Winnipeg's rivers and streams. The Committee believes many of our other recommendations provide the basis for optimism that the requisite leadership and commitment can emerge.

7.4 URBAN ENVIRONMENT

Recommendation 37 *Increased Powers for the City over Waterways*

The Review Committee recommends that the powers of the City Council over rivers, streams, riverbanks, and river-related lands within the boundaries of the

*Committee of Review, *Report and Recommendations* (Winnipeg: Government of Manitoba, 1976) p. 123.

***Ibid*

City be substantially increased. We suggest the following specific measures:

1) The City's regulatory authority should be extended to all watercourses (including rivers, streams, creeks, coulees, drains, and ditches) within the City's boundaries.

2) The Federal government should transfer its jurisdiction over the Alexander Dock to the City.

3) The effective powers delegated to the City by *The Rivers and Streams Act* should instead be granted to City Council in *The City of Winnipeg Act*. Either *The Rivers and Streams Act* should then be repealed or the rivers and streams within the boundaries of the City of Winnipeg should be excepted from *The Rivers and Streams Act*.

4) The Provincial Government should delegate to the City all necessary powers to regulate, prohibit, or otherwise impose requirements with respect to all buildings or structures, natural or planted vegetation, pathways and clearings, licensing of amusement places and devices, operation of vehicles, pollution and boat discharges, boating safety, public safety, and other purposes or uses in, on, over, under, adjacent to, or otherwise related to any watercourse within the City of Winnipeg.

5) The City's jurisdiction over lands and works should be extended beyond the current statutory limits as required to achieve its objectives in waterway regulation.

Discussion

The Review Committee notes an emergent commitment from the people of Winnipeg to improve and adequately regulate our rivers and riverbanks. During our hearings we heard from a number of river and riverfront users, from riverbank property owners, and from other citizen and special interest organizations. They forcefully urged more effective action by government and greater public regulation of rivers and streams.

We believe the City is the logical level of government to have enlarged responsibilities here. To meet its increased responsibilities, however, the City requires increased authority to control river-related development and to direct improvements to water-based environments.

Several years ago, City Council's Winnipeg Rivers and Streams Committee undertook a review of the role of the Winnipeg Rivers and Streams Authority No. 1. That Committee identified a number of deficiencies with respect to statutory powers, governmental jurisdiction and overlap, inter-governmental agreements and financial responsibilities, political initiative, and administrative procedures. Many of the Committee's specific recommendations are supported by the Review Committee and are reflected in our recommendations.

Over the past several months, the Winnipeg Rivers and Streams Committee, through an Ad Hoc Committee on Jurisdiction, has undertaken an updated review. Many of the same issues are being examined, but the Ad Hoc Committee is also looking at alternative models for exercising the Authority's current functions and expanding its responsibilities. The Committee's recent consultant study was received by the Review Committee just prior to completion of this Report, and it was consequently not possible to evaluate or incorporate its findings here.

The Review Committee believes that the confusing statutory maze regarding rivers and streams in Winnipeg should be clarified. A single statute, *The City of Winnipeg*

Act, is sufficient to define the City's powers and responsibilities in this area. Consequently, we see no need for *The Rivers and Streams Act* to be applied to watercourses in the City.

Furthermore, consistent with our principle of political accountability at City Hall and our view of the limited role of municipal boards and commissions, we suggest that the Winnipeg Rivers and Streams Protection Authority No. 1 be abolished (see Recommendation 12). As the Authority is currently composed of both City Councillors and citizen members, it provides an element of unnecessary confusion in the political system.

7.4 URBAN ENVIRONMENT

Recommendation 38 *Establishment of a Winnipeg Rivers Corporation*

The Review Committee recommends that the Provincial Government, in cooperation with the City, establish a Winnipeg Rivers Corporation. The Corporation should be established by special act of the Legislature, and referenced as required in *The City of Winnipeg Act*.

The mandate of the Rivers Corporation should be to provide for the improved planning, use, development, conservation, and management of waterways, rivers, waterfronts, riverbanks, and other related areas within the City of Winnipeg and the Winnipeg region.

The general purpose of the Corporation's activities should be to ensure that the quality, character, and contribution of Winnipeg's waterways, waterfronts, and related lands are preserved and enhanced for present and future generations.

Purposes and Functions

The Corporation should be assigned seven definite purposes and functions.

1. Development and Management

The Winnipeg Rivers Corporation must have powers as a corporation to develop and manage lands and watercourses, and to develop, manage and/or operate facilities and programs in, on, around, and related to lands and watercourses, over which the Corporation has ownership control, leasehold tenancy, or other contractual or proprietary rights.

The Corporation's development and management activities should be directed toward:

- Increasing and enhancing public access to, and public use of, watercourses, riverbanks, floodplains, accessways, parkways, trails, paths, and other connections to rivers and streams;
- Providing and managing facilities and programs for recreational and leisure use, amusement, refreshment, cultural use and appreciation, public education, natural area recognition, heritage interpretation, and aesthetic enjoyment;
- Developing, promoting, and managing commercial and other facilities and programs of importance to the local and regional economy, serving area residents, visitors and tourists;
- Undertaking such other projects and programs as the Corporation's shareholders and its Board

of Directors may deem appropriate to its purposes.

The Corporation should be required to submit applications to all appropriate authorities for all approvals, permits, licenses, or other legally-required authorizations in accordance with its developmental and management objectives.

2. Long-range and Project Planning

The Winnipeg Rivers Corporation should be obliged to initiate and prepare long-range and project plans for its activities within the city and regional watershed, including all watercourses (such as rivers, streams, drains, coulees and ponds), all waterfronts and riverbanks, and other designated water-related areas within the Winnipeg region, pursuant to its objects and purposes.

The long-range and project plans should contain, but not be limited to:

- Specific land and water area policies and use designations;
- Descriptions and schedules for proposed Corporation projects;
- Schedules of actions and commitments required of governments and other organizations;
- Draft legislative and regulatory suggestions submitted for consideration of the appropriate governmental authorities; and
- An implementation schedule, cost estimates, and a five-year capital and operating budget.

The Corporation should submit its long-range and project plans to City Council, appropriate Provincial authorities, and other municipal councils as needed, for their review and incorporation into their official plans as required.

3. Natural Areas

The Winnipeg Rivers Corporation should be obliged to protect, conserve, and rehabilitate "natural areas", the natural resources therein, and areas of significant ecological, environmental, aesthetic, and/or scenic importance.

The Corporation should also be obliged to submit its management plans for natural areas to the appropriate Municipal and Provincial authorities for review and approval as required.

4. Historic and Heritage Resources

In addition to its responsibilities for the natural environment the Winnipeg Rivers Corporation should be obliged to protect, conserve, restore, and manage significant historic and heritage resources.

The Corporation should also be obliged to submit its plans and project applications for historic and heritage resources to the appropriate Municipal and Provincial authorities for review and approval as required.

5. Transportation

The Winnipeg Rivers Corporation should be empowered to develop, construct and operate internal parkways, trails, movement systems, transportation services and facilities, and other means of access and egress, within land and water areas under its control.

The Corporation should be required to submit its

transportation plans and project applications to Municipal and Provincial authorities as required to ensure compatibility with the existing and projected City and regional systems.

6. Development and Design Review

The Winnipeg Rivers Corporation should be additionally authorized to review, advise, and submit recommendations to municipal and provincial approval and regulatory authorities regarding the use, development, design, operation, and management of any lands or watercourses within the Winnipeg region, or regarding any proposed or operating projects, activities or programs related to its purposes and functions, but not under its control.

The Provincial Government, the City of Winnipeg, the Rural Municipalities and Planning Districts within the Winnipeg region, and all other public institutions within the region, such as the University of Manitoba, should be obliged, under the terms of *The City of Winnipeg Act*, *The Planning Act*, *The Clean Environment Act* and other relevant statutes of Manitoba, to refer to the Corporation, for its review and advice, prior to hearings and/or governmental decision, all development applications, land use plans, zoning, building and demolition applications, landscape plans, building designs, and any other applications or proposals likely to impact on the Corporation's activities or the waterways, waterfronts, and related environments within the region.

7. Other Purposes and Functions

The Winnipeg Rivers Corporation should be authorized to pursue other purposes and functions as the shareholders and directors may determine to be consistent with the Corporation's mandate.

• Membership in the Corporation

The Winnipeg Rivers Corporation should be incorporated as an independent, not-for-profit corporation with two, and possibly three, shareholders. The two principal shareholders would be The Province of Manitoba and The City of Winnipeg, with The University of Manitoba being the possible third shareholder.

• Directors

All Directors should be residents of the Winnipeg region who do not at the time of service hold any elected or administrative office within the Provincial or Municipal governments or the University of Manitoba. Relevant experience with and commitment to the purposes of the Corporation should be among the criteria used for selecting Directors. Directors should be appointed for no fewer than four (4) years and, after initial appointment, be replaced on a staggered term basis.

The Board should be obliged to report to the shareholders on a regular basis and to issue reports at least annually to the shareholders and the public describing its activities and intentions in pursuit of its mandate and purposes.

• Resources

The shareholders should provide, as applicable, the following resources to the Corporation at the commencement of its operations:

- Title or long-term leasehold interest to all capital and lands owned, leased or otherwise acquired

under the Canada/Manitoba Agreement for Recreation and Conservation (ARC) and/or controlled by the Manitoba ARC Corporations Inc.;

- Title or long-term leasehold interest to selected properties, both developed and undeveloped, currently held by the three shareholders;
- A one-time, unrestricted capital endowment grant from the Government of Manitoba (perhaps in the order of \$40 million);
- A one-time, unrestricted capital endowment grant from the City of Winnipeg (perhaps in the order of \$10 million);
- A first-year operating grant of \$2 million, shared by the shareholders on the basis of an agreed-upon formula, for example:

Government of Manitoba	60%
City of Winnipeg	30%
University of Manitoba	10%
- Annual operating levies, as determined by the three shareholders, in consultation with the Corporation's Board of Directors, apportioned on the same formula as above; and
- Special operating levies on participating rural municipalities and/or planning districts in the Winnipeg region, as agreed and approved by the appropriate municipal councils and the Corporation's Board.

• Debt

The Act of Incorporation should limit the Corporation's capacity to sell bonds, debentures, or other securities to a debt limit approved by the Minister of Finance, and the Act should provide that all securities issued must be guaranteed by the Provincial and/or Municipal governments.

• Contributions

The Corporation should be empowered to receive gifts and contributions, to register the Corporation or a subsidiary foundation as a charitable organization, and to issue receipts for tax-deductible donations.

The Corporation should also be authorized to receive funds and other contributions from, and to negotiate special agreements with, the Federal Government, Provincial and Municipal agencies and departments, Crown Corporations, or other quasi-governmental organizations.

• Accountability

Finally, the Winnipeg Rivers Corporation must be required to account for its stewardship of public resources to its shareholders and to the public. The Act of Incorporation should require that the annual report of the Corporation be a public document and include detailed statements of the five-year capital and operating plans and current financial statement of the Corporation, in addition to descriptive accounts of the current activities of the Corporation.

Discussion

The rivers and streams within the City and the urban region have been neglected for many years. Only recently, have various inter-governmental initiatives—the Federal/Provincial Agreement on Recreation and Conservation

on the Red River Corridor (ARC), the tri-level Core Area Initiatives Agreement, and the Canada-Manitoba Tourism Development Agreement—turned the attention of the City and senior governments back to Winnipeg's rivers.

Intergovernmental agreements, however, are by definition of limited duration and subject to relatively short-term political, financial, and other influences. The Manitoba ARC Corporation was never meant to outlive the Agreement that gave it birth. Initially expected to wind up its operations by December 1985, it has been extended for three more years to complete already approved projects within its original fund of \$13 million.

In light of the considerable achievements and experience of ARC, the Review Committee now sees an opportunity to apply the lessons learned from this experience and to establish a permanent institution to extend and intensify the work. Such a corporation would be afforded substantial land and financial resources; assume the equity and long-term financial, operational and management responsibilities for in-place ARC projects; and then proceed to new projects and programs, building upon that base. With the creation of such a Rivers Corporation, and an improvement in the regulatory regime within which both public and private interests must operate (see Recommendation 36), the stage will be set for still greater initiative and creative activity along our waterways.

Our recommendation for the establishment of a permanent Winnipeg Rivers Corporation is rooted in recent history and future opportunity. We believe a solid and expanding base of public and political support now exists for such an idea. We believe that the time is now ripe for vigorous action and that such a public-interest, non-profit corporation is the most practical and effective means of organizing and shaping that action. (We use the nomenclature "Rivers Corporation" for illustrative purposes only; another and probably better name might well be selected prior to incorporation.)

The opportunity is there. Riverbank land under public ownership and control is of considerable magnitude and variety within the City (see Map III which shows the extent of Federal, Provincial, Municipal, and university lands along Winnipeg's rivers and streams). With many of these lands as a resource base for the Corporation, coupled with the financial commitments suggested above, the Corporation will have one of the best chances in the City's history to create a model of urban excellence of enduring value to the City, the Province and the nation.

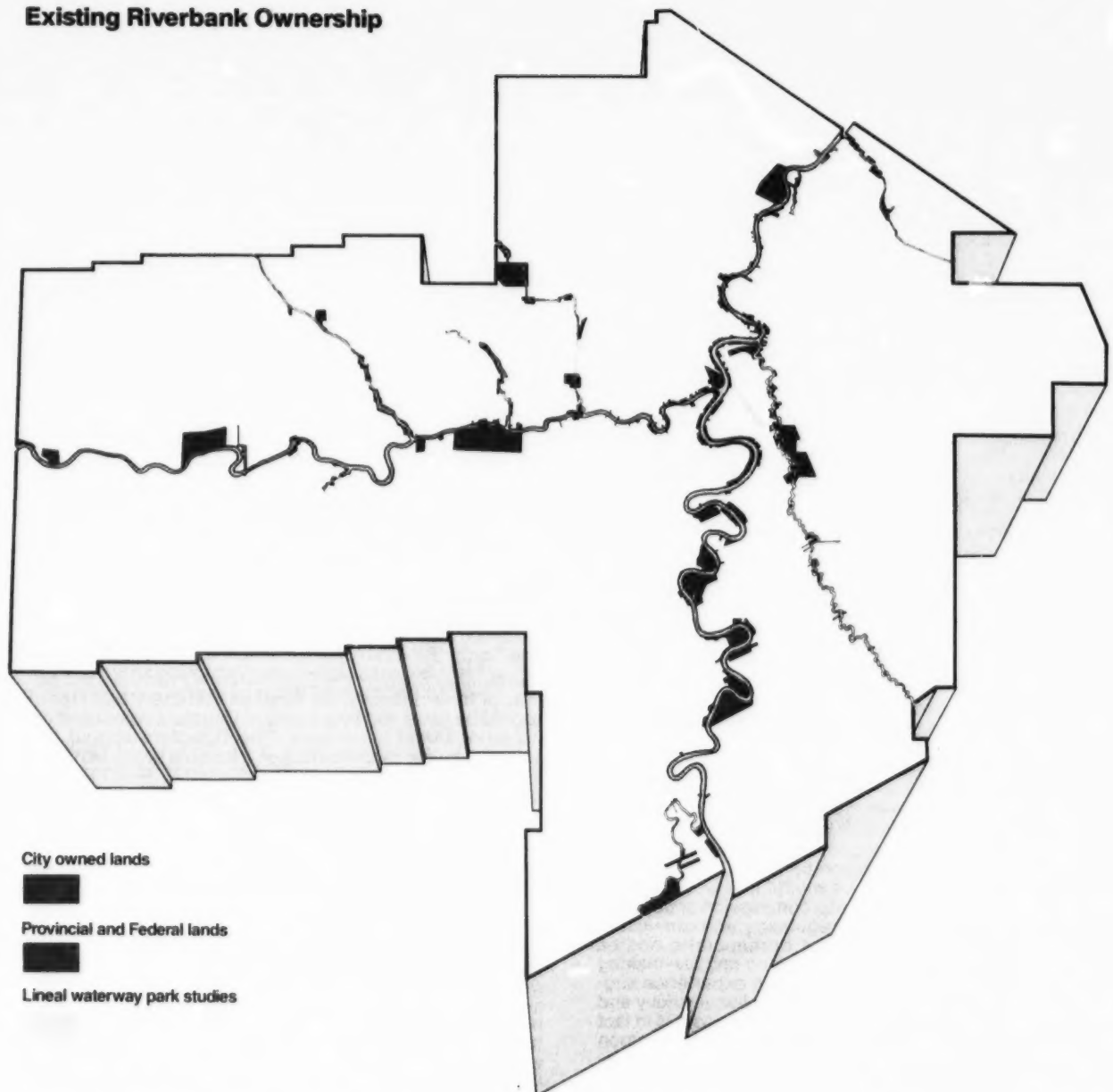
In arriving at this recommendation, the Review Committee consulted with civic, provincial and ARC officials. We also examined the powers and performance of a variety of urban waterway organizations in Canada and elsewhere. Particular attention was focused on the ARC Management Board and Corporation, the Meewasin Valley Authority in Saskatoon, the Wascana Centre Authority in Regina, the Metropolitan Toronto and Region Conservation Authority, the National Capital Commission in Ottawa, and the River Walk Commission in San Antonio, Texas. Learning of their exciting accomplishments, political histories, delegated powers and duties, and their limitations, we examined how their most positive elements could be feasibly adapted to our particular context.

Our Rivers Corporation recipe, therefore, is a distinctive Winnipeg blend of some attractive ingredients from elsewhere with some suitable local flavours. From the National Capital Commission, we learned that providing the Rivers Corporation ongoing responsibilities for operation and management of its projects and programs are the best guarantee that high standards of excellence and quality are maintained. Meewasin's Act may soon be amended to achieve these benefits.

Also from the National Capital Commission, we recognize the virtue of a broad mandate and wide geographical

MAP III

Existing Riverbank Ownership



scope for the Corporation's activities. We suggest it not be limited to a "conservation zone" or similar spatial restriction. The Corporation's ability to acquire "related lands" and to develop and manage facilities and programs "related to" its mandate provide it with needed flexibility for the future.

From Meewasin, we are attracted by the very long temporal framework (100 years in fact) that guides the Authority's work. We suggest a similar horizon for a Winnipeg Rivers Corporation, such that actions may begin each year that may not bear fruit for perhaps a quarter of a century or

more, yet be in accordance with an approved long-term vision.

We are also impressed with the development review functions of the Meewasin Valley Authority and suggest their incorporation here. It is vitally important that the Winnipeg Rivers Corporation have special access to the approval and regulatory authorities and the capacity to influence developments and other actions situated, for example, across the street from one of its projects. The Rivers Corporation thus would be guaranteed policy and legislative input on all matters related to its mandate and

purposes, but would not be involved in the day-to-day approval processes of the Municipal or Provincial governments.

Both Meewasin and Wascana have their respective campuses of the University of Saskatchewan as sitting members of their Boards. Meewasin's view is that the Authority has benefitted substantially from the University's expertise, independent counsel, and land position. We suggest that the same benefits are likely in Winnipeg and that the University of Manitoba might well become the third shareholder in a Rivers Corporation.

We have also incorporated elements of the "foundation model" with respect to a permanent, sustaining endowment funds; charitable status; and heritage functions.

Clearly, then, the Review Committee conceives of a Winnipeg Rivers Corporation as a government-sponsored, publicly-financed, independently-managed, not-for-profit development corporation. We use the summary term "development" advisedly, however, and wish it not to be misunderstood in the narrow sense of "building" or "changing from the natural state". We consider the Rivers Corporation as the best available vehicle for the multiple tasks of initiating, planning, conserving, developing, implementing, and managing creative projects and programs in, on, around, and related to the City's principle natural resource—its waterways and waterfronts.

As a result of our analysis of other examples, and consistent with our approach and commitment to maintaining political accountability, the Committee adopted the principle of clearly separating planning, developmental, and management functions from approval and regulatory functions. This separation of roles is crucial in our opinion. A specially-endowed, independent Rivers Corporation will, just as any proponent must, make its applications for approval, be obliged to adhere to all government regulations and controls, and have to convince political decision-makers and indeed the public-at-large that its projects and programs are in the best interest of the City and the Province. In short, we seek to ensure that while the Corporation proposes, the government disposes.

At the same time, the corporation must be as free as possible of the political and bureaucratic constraints that often interfere with vigorous, creative, and future-oriented initiatives. This balance between the challenging proposals brought forward by an activist non-governmental organization, and the political responsibility for decisions retained by governmental institutions is the key to success over the long-term.

In opting for this type of Corporation, the Committee has clearly rejected an alternative model that would have a separate development authority, commission or corporation serve also as an approval, regulatory, and administrative substitute for political and bureaucratic bodies normally charged with decision-making and law-making responsibilities. Indeed, the Meewasin experience suggests that its regulatory powers are a politically risky and expensive way of achieving its goals. Meewasin is in fact working at integrating its regulations into City of Saskatoon by-laws and indeed delegating most of its regulatory powers to the City over the next five years.

We acknowledge that some may prefer the perhaps more traditional model of merging all functions within the same organization. Such a functional merger provides the rationale for blending elected politicians, senior civil servants, and outside persons on a Board of Directors. It is presumed that this type of organization is more efficient in co-ordinating the various steps along the road to implementation and ensures that the political and bureaucratic wheels are greased and well-meshed.

While recognizing the theoretical merits of such a combined approach, we believe that in practice a system with greater dynamism and challenge and based on negotiated

agreements will better serve the long-term interests of waterfront and waterway conservation, development and management. Clearly, contractual arrangements can be made between, say, the Corporation and the City's many service departments responsible for parks, trees, insects, policing, waste collection, and so on. But, at the same time, the Corporation must also be free to adopt its own management policies and develop its own service capabilities if needed.

In summary, therefore, a Winnipeg Rivers Corporation, as an activist initiator of projects and programs, will still have to take its proposals, action plans, and requests to the governments, who retain full responsibility for ultimate approvals. Those elected bodies will thus still be accountable for either supporting and allowing projects and programs to proceed or, on the other hand, for stifling and blocking them.

We believe it essential, however, to provide a strong, resourceful, and relatively independent development mechanism as a counterweight to governmental inaction or inability. We also consider such an organization to be a constructive adjunct to government. A quasi-public Corporation dedicated to taking initiatives, getting a job done, and bearing the burdens of ongoing operation and management, will assist governments in achieving objectives they might otherwise have had difficulty in pursuing. This Corporation is suggested not because the political pressures are too great and must be circumvented, but because a broadly-mandated body is the best vehicle to provide the dynamism needed.

To achieve the results hoped for, and to pursue vigorously the mandate and purposes set out for the Corporation, both the Provincial and Municipal governments, and the Province's major university, are called upon to demonstrate their commitments. This will best be done through long-term, secure, and substantial public investment, through effective and efficient decision-making, and through a sustained exercise of political will in support of its activities. The Corporation can only succeed if the parties wish it to.

The manner in which the Corporation is organized will be crucial to its success. We suggest that the Corporation should be governed by a Board of Directors composed of no more than 11 members. The Directors should be selected by the shareholders on a formula basis, perhaps as follows:

Government of Manitoba	5 Directors
City of Winnipeg	4 Directors
University of Manitoba	2 Directors

We do not suggest inclusion of the Federal government directly as a shareholder of the Corporation. Our sense is that Ottawa's long-term interests and concept of its responsibilities do not extend to direct involvement in provincial or municipal organizations devoted to waterway and waterfront improvement. This is by no means to minimize the tremendous contribution that Ottawa has and can continue to make in river revitalization and riverbank redevelopment in Winnipeg. Under our proposal, the current federal initiative with respect to the Forks would be undertaken in concert with the Winnipeg Rivers Corporation. Additional waterway agreements, special grant funding, and other federal incentives, therefore, could in future be channelled directly to a new Winnipeg Rivers Corporation.

7.4 URBAN ENVIRONMENT

Recommendation 39 Establishment of a Regional Environmental Advisory Panel

The Review Committee recommends that the City of Winnipeg and the Province of Manitoba, together with appropriate municipalities in the

extended Winnipeg region, jointly establish a Regional Environmental Advisory Panel. As its purposes and functions, the Panel should:

1) Review the adequacy of environmental evidence, guidelines, procedures, standards, and management practices of the participating members, and make recommendations thereon regarding improvement and change to the member governments;

2) Make recommendations on environmental policies, programs, plans and legislation for consideration of the member governments;

3) Prepare and/or review environmental impact assessments of major public or private projects or programs of regional environmental significance, and submit its reviews and recommendations to the appropriate governments and agencies charged with approval authority;

4) Conduct public information and education programs, and public hearings as appropriate, on regional environmental issues;

5) Publish reports and other materials related to its purposes and activities; and

6) Undertake other purposes and functions as the members may determine.

The Panel should be composed of five persons, selected by agreement of the member governments. The basic qualifications for appointment to the Panel should be knowledge and objectivity in environmental matters.

None of the members should be elected or appointed officials of any member government. Members should serve for three-year renewable terms.

The member governments should provide the Panel with funds sufficient to fulfill its responsibilities.

Discussion

Environmental concerns typically are not limited by the boundaries of a single city or municipality. As many environmental impacts—both positive and negative—affect the City, nearby rural and urban municipalities, and even the Province in general, the Committee believes it

would be useful to create an environmental review panel with a region-wide scope and mandate. (It should be clear that we use the term "environmental" here to include social and economic matters, as well as biological and physical subjects.)

During our hearings and through correspondence, the Committee received a number of representations and expressions of concern regarding decisions on the environment or the lack of them. Specific subjects ranged from the City's spraying programs for mosquito and cankerworm control, the use of herbicides in parks and on farms, to fluoridation of the water supply, and disposal of effluent, salt, snow, and other wastes into the rivers. Additional urban concerns raised included the transport of hazardous goods through the City by rail, truck or other means; PCB spills; disposal of radioactive materials by hospitals, industries, universities, and other users; methane gas emissions from landfill sites; and so on. Specific regional concerns were also expressed, including location and management of sludge beds, ash dumps, derelict vehicle depots, treatment plants, road corridors, agricultural drainage improvements, protection of the aquifer in East St. Paul, exurban subdivision development, and many other items.

The Committee suggests that, in addition to the activities of the Clean Environment Commission and Environment Canada, the City and other municipalities in the region can benefit from additional independent, non-governmental advice to improve their management of the urban and regional environment. Environmental decisions most often require, and are improved by, a combination of:

- balanced and independent advice from technical experts and lay persons;
- an information and involvement process open and accessible to public expressions of concern and opinion; and
- independent reviews and advice from bodies that, while having direct access to political decision-makers, enjoy a certain distance from the immediate pressures of local and provincial politics, and a longer-term perspective.

The Committee suggests that these benefits can be obtained through a Regional Environmental Advisory Panel as proposed here.

We also suggest that two members from outside the Province be considered as members of the Panel. This device, used successfully by other federal and provincial environmental review agencies, would reinforce the Panel's independence and impartiality.

SECTION 8: THE CITY AND ITS NEIGHBOURS

Introduction and Summary

A number of fundamental and difficult regional issues have occupied a considerable portion of the Committee's time and energy. These basic issues are the effectiveness and desirability of what is known as the Winnipeg Additional Zone, the appropriateness of the current boundaries or geographical limits of the City of Winnipeg, the utility and purpose of future mechanisms for cooperation between the City and its neighbouring rural municipalities, and the resolution of a number of inter-municipal grievances and continuing problems that adversely affect their relations.

The Committee resolved early in its deliberations to employ a special process not only to attempt to reach our own conclusions on these thorny issues, but also to achieve as much of a consensus as possible on solutions to those problems among the City, the rural municipalities and the Province. Over a year's time, numerous meetings, consultations, and reviews were conducted with all these parties.

As a result, the Committee believes that general agreement has been reached on most of the basic items, such as the future of the Additional Zone, principles for boundary adjustment, City acquisition of land outside the City, the City's adherence to the approval requirements of other municipalities, and City payments of full grants in lieu of property taxes to other municipalities. Some disagreements remain, especially with respect to specific boundary changes.

On the question of a future regional mechanism for consultation and cooperation between the parties, the jury is still out. While the Committee makes a specific recommendation for a regional association of municipalities in the region, we must observe that the parties have not shown overwhelming interest in, or commitment to, the idea at this time. This is not to suggest that the parties are unwilling to give it a try. We are convinced that it is only a matter of time before the need for, and utility of, such an association will be recognized; we hope this recognition need not wait for a regional crisis to develop.

The Committee wishes to depart from our normal custom in these introductions to our recommendations to express our appreciation to all those who gave of their time and counsel in our consultation process. We have benefitted greatly from all our discussions with the Reeves and Councillors of each rural municipality around Winnipeg; with the Mayor, Councillors, and staff of the City of Winnipeg; and with the Minister of Urban Affairs, the Minister of Municipal Affairs, and their respective staffs from the Province of Manitoba. Their encouragement, criticism, and candidly-expressed views during this unique process greatly assisted us in developing what we hope to have achieved—recommendations generally considered to be practical and realistic, politically acceptable, and a sound basis for improving regional planning and governmental relationships in the future.

8.1 THE ADDITIONAL ZONE

Recommendation 40 *Abolition of the Winnipeg Additional Zone*

The Review Committee recommends that the "Winnipeg Additional Zone" be abolished. All statutory references to the Additional Zone should be deleted and references to other municipalities in the Winnipeg region should be appropriately modified consistent with the Committee's other recommendations in this Report and in accordance with

subsequent amendments made to the Act.

Discussion

The Winnipeg Additional Zone was created in 1961 under terms of the **Metropolitan Winnipeg Act** as a control zone for the newly established Metropolitan Corporation of Greater Winnipeg. This zone averaged about five miles in depth from the corporate limits of Greater Winnipeg and afforded Metro with extraterritorial powers over the land-use planning and zoning decisions of the elected councils governing all of the adjacent rural municipalities.

With the formation of Unicity in 1971, the Additional Zone concept was retained with some boundary and jurisdictional modifications, all of which were enshrined in the new **City of Winnipeg Act**. Since that time, the Additional Zone has been eroded. Under the provisions of **The Planning Act**, three rural municipalities—Rosser, Macdonald, and Ritchot—have now opted out of the Additional Zone by joining or forming planning districts. This has resulted in the elimination of nearly 60 percent of what had been known for over twenty years as the Winnipeg Additional Zone.

The Additional Zone concept has also outlived whatever usefulness it may have had. The original vision of the Additional Zone as the mechanism for securing a European-style green belt around Winnipeg, controlled and administered by an enlightened Metro or Unicity Council, has proved to be a mirage. The history of the past twenty-five years indicates to us that whatever has happened has been largely in spite of the Additional Zone structure. Where development has been effectively limited and channelled, the agriculturally-dominated rural councils, supported by the Province's land-use policies and Ministerial assistance, can largely take the credit. Where the "green belt" has been compromised, all jurisdictions involved—the City, the Rural Municipalities, and the Province—share the responsibility. Most especially adjacent to the northern boundaries of the City and along major regional arterials, residential developments of a typical suburban density have been approved.

Opinions vary with respect to what has been noted as this penchant for "suburban expansion." The very term itself is both imprecise and defined according to one's point of view. Characterized as "urban sprawl," it is condemned by many government and professional planners, lay commentators, and old rural residents. Defined as "growth," it is beloved by land owners/developers, new residents, and many local politicians.

The fact is that suburban expansion, over the period of the Additional Zone's existence, has generally taken place within the City's own borders as a result of City Council's own approval of suburban developments. As the City allowed this expansion to reach its boundaries, a "spill-over" form of suburban development was permitted in a few adjacent rural municipalities, notably in East St. Paul and to a lesser extent in West St. Paul.

The Additional Zone was supposed to provide the most effective series of checks against this type of urban-style development in rural areas. The rural councils themselves could have controlled development; if they did not, the City of Winnipeg had the power to control development through its extraterritorial approval authority; and if neither did so, the Province had the ultimate powers to control development through its overriding legislative and plan approval authority. Sufficient cases have been brought to the attention of the Review Committee to suggest that a

plague on all their houses is perhaps an apt conclusion to draw from this part of the Additional Zone experience.

Any prospect that urban-style development of "rural land" could be effectively curtailed either within the City or in the Additional Zone was removed by the passage by City Council of By-law 422/73 amending the City's Development Plan (originally the Metropolitan Winnipeg Plan). This amendment, adopted shortly after the creation of Unicity and assented to by the Province, had the effect of changing the designated land-use in large areas both within the City's boundaries and in certain of the fringe area municipalities from "Areas of No Urban Expansion" to "Areas of Limited Urban Expansion." Most of the suburban-type development referred to above was routinely approved under the permissive provisions of the amended plan.

The Committee's recommendation to abolish the Additional Zone is fundamentally rooted in our view that the extraterritorial power of one municipality—the City of Winnipeg—to control planning and development approvals in part or all of the lands constituting other municipal corporations—the neighbouring rural municipalities—is an inherently unfair and unjustified relationship. As a result of our extensive consultation process, we think it fair to say that none of the jurisdictions within the Winnipeg region, including the City, is comfortable with the Additional Zone situation. Every municipality in the region, and the Provincial Government as well, desire change.

Removal of the remaining vestiges of the Additional Zone from **The City of Winnipeg Act** will complete the apparently inevitable trend toward withdrawal by neighbouring rural municipalities. It will provide a basis for creating a more equitable framework for a new urban-rural relationship without resort to marriages of convenience between two or more rural municipalities required to form a planning district.

Abolition of the Additional Zone will place final land-use authority in that area in the hands of the Province of Manitoba in place of the City of Winnipeg. Thus the Province, under **The Planning Act**, will exert approval authority over the development plans and zoning by-laws governing land-use in the former Additional Zone areas of the rural municipalities, just as it does now for those municipal areas outside the Additional Zone. Furthermore, the Province will also be in the position of approving or rejecting all subdivision applications throughout the rural municipalities, except in those cases where the Minister of Municipal Affairs grants final subdivision approval authority to the planning district of which the municipality is a member. Even in this case, however, subdivision approvals must be in accordance with the Provincially-approved development plans and are appealable to the Manitoba Municipal Board and the Minister.

Elimination of the Additional Zone will thus confirm the Provincial Government as the final arbiter between the City and its neighbours on all inter-municipal conflicts within the Winnipeg region. All planning disputes, servicing and transportation conflicts, and financial relationships, for example, that cannot be settled by inter-municipal agreement within their delegated authority, will ultimately be placed before one or more Provincial ministers for resolution. This responsibility places an even greater imperative on the Government to improve its internal and inter-departmental coordination and its policy development performance to deal successfully with regional matters (see Recommendations 6 and 25).

Elimination of the Additional Zone and the extraterritorial powers of the City will also remove several contentious provisions of **The City of Winnipeg Act**. Appeals of R.M. Council decisions to Winnipeg City Council's Designated Committee (that is, the Committee on Environment) will no longer take place. This is favoured by most City Councillors, who, by their own admission, are neither

comfortable with nor knowledgeable about most issues within the rural municipalities. Residents of the Additional Zone portion of the R.M. of Tache, which does not share any common border with the City, will no longer be required to obtain even the most minor building permit or inspection from Winnipeg City Hall. And the prerogatives and special advantages enjoyed by the City in the Additional Zone, such as land acquisition and use, and grants-in-lieu of taxes, will disappear and be replaced by more normal and justifiable provisions (see Recommendations 44 and 45). The rural councils will thus become "masters in their own houses," but still within the constraints of Provincial legislation and, at the Government's discretion, Ministerial approval.

On the other hand, abolition of the Additional Zone presents the problems of rationalizing and adjusting as required the City's boundaries. The limits within which the City has important and legitimate interests, and over which it should have territorial and functional control, should be newly defined.

The Committee is not attempting here to impose its own planning or development vision. It is mindful, however, of the stated commitments of the City in Plan Winnipeg, of the objections of the Province with respect to the urban limit line, and the official policies and land-use plans of the neighbouring municipalities that have adopted them. And the Committee is also mindful of the changes that can and rightfully do occur over time when the governments of the day have different ideas.

We have suggested, therefore, some principles for ongoing boundary adjustments as needed and some specific boundary changes (see Recommendation 41). We commend them to the Province as worthy of consideration, of further study of their implications, and of detailed consultation with those affected, followed by decisive Provincial action. We make this recommendation in the hope that by 'biting the bullet' now and providing a clear jurisdictional pattern for the future, all the governments involved can get down to the business of governing their own areas and the wider region without looking periodically over their shoulders for new threats to their corporate boundaries and authority.

Beyond the boundary adjustment issue, the Committee is concerned about what organizational mechanism for regional consultation and cooperation should take the place of the Additional Zone. What we hope and suggest (see Recommendation 42), is that abolition of the Additional Zone will help set the stage for creation of a more cooperative and effective pattern of inter-governmental agreements. Whatever the mechanism, the elimination of the Additional Zone requires that all municipalities in the region participate on a newly-established basis of legal equality and jurisdictional integrity.

8.2 CORPORATE LIMITS OF THE CITY OF WINNIPEG

Recommendation 41 *Adjustments to the Boundaries of the City*

The Review Committee recommends that the Act establish principles or guidelines to be used in making boundary adjustments between the City and adjacent rural municipalities. This section should specifically oblige the Province to make boundary adjustments as required to ensure future maintenance of an urban development standard within the City's boundaries and a rural standard and lifestyle outside the City's boundaries.

The Committee suggests the following general guidelines:

1. Lands relatively contiguous to the City's boundaries that an elected Council of a rural municipality has designated for development, or approved for development to a suburban standard, typical of suburbs within the City, should be incorporated within the City's boundaries.

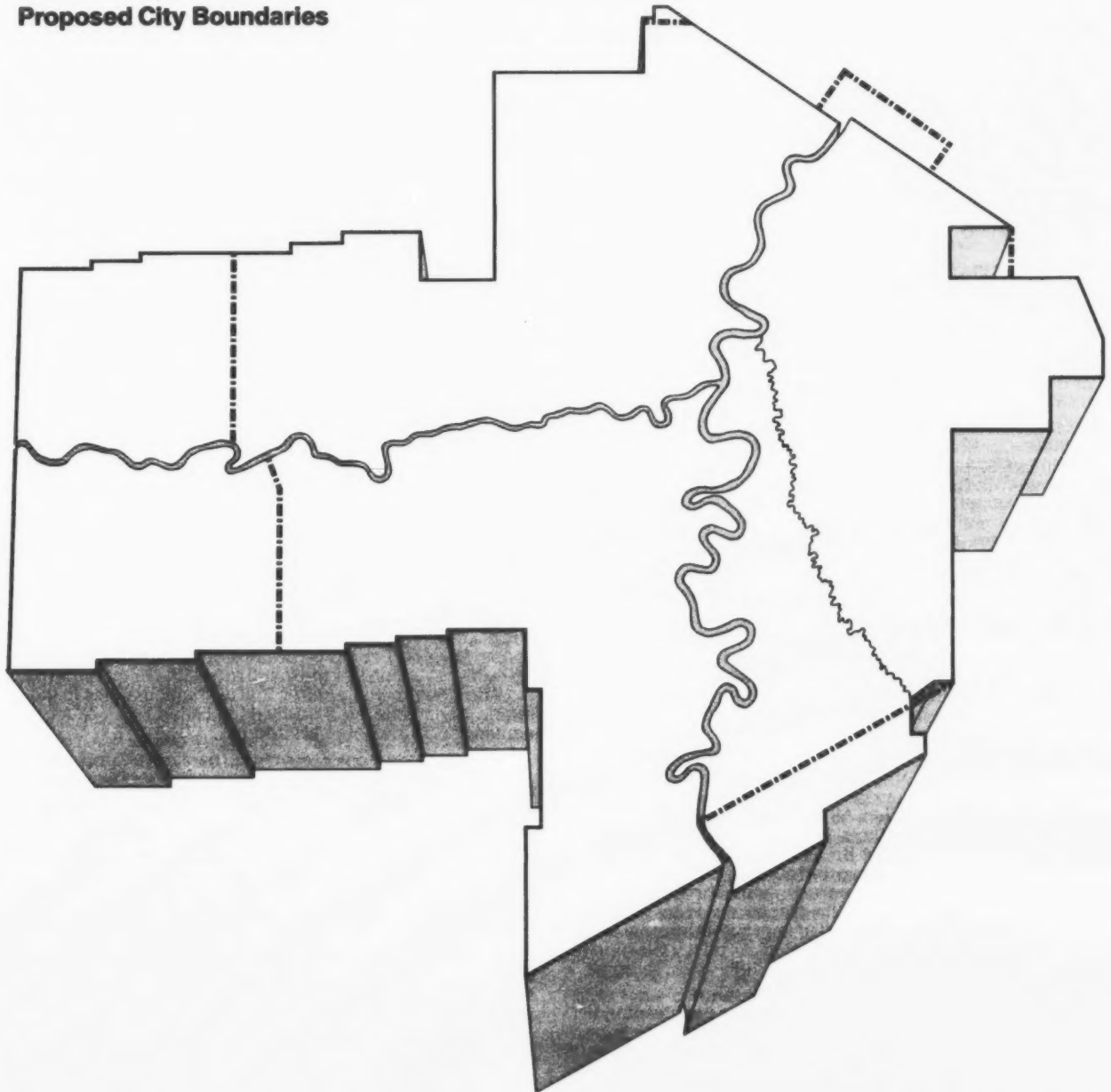
2. Lands that rural municipalities designate and/or approve for development for rural residential purposes (below the standards typically found in

the City's suburbs), agricultural use or other "rural" purposes, outside of their established towns or villages, should be retained within their jurisdiction.

3. Where the City declares its long-term intention not to use lands within the City's boundaries for development to a typical urban or suburban standard, or for other uses and purposes important to the city, those lands should be considered for exclusion from the City's jurisdiction.

MAP IV

Proposed City Boundaries



The Review Committee also recommends that the Act be amended to establish new boundaries for the City of Winnipeg. In some areas, we recommend no change in the City's current boundaries. In other areas, however, we do suggest some important modifications (see Map IV).

The Committee recommends, therefore, that the following boundaries of the City of Winnipeg, relative to adjacent municipalities, be considered:

1. *R.M. of Rosser and R.M. of Macdonald*: No change in the City's boundaries with these municipalities is required.

2. *Headingley area*: The Committee is not in a position to provide a specific description of the western boundary at this time. One idea which has received considerable support during the consultation process is that the City's western boundary should be drawn in to remove the Headingley area from the City of Winnipeg. North of the Assiniboine River, the boundary could be approximately two kilometres west of the Perimeter Highway. South of the river, the boundary could be the Perimeter Highway. We recommend, however, that an immediate study of the alternatives for precise boundaries and for Headingley's future municipal status be undertaken and concluded within twelve months.

During this period, a Basic Planning Statement or Development Plan should be prepared for the area. One of the main objectives of this plan should be to establish policies and an official land use plan to safeguard Headingley's future as a predominantly rural environment adjacent to the City. Headingley's residents must be given the opportunity to participate fully in this process and in the decisions that may be taken as a result.

3. *R.M. of West St. Paul*: While no significant change in this boundary is suggested at the present time, serious consideration should be given to moving the boundary east of Main Street north to the Perimeter Highway.

In addition, a relatively minor "housekeeping" boundary change should also be considered. This involves the only parcel of land within City boundaries north of the Perimeter Highway, a small area which should be transferred to West St. Paul.

4. *R.M. of East St. Paul*: The City's northern boundary east of the Red River west to Lagimodiere Boulevard should be extended to the Perimeter Highway.

Alternatively, the City-East St. Paul boundary might remain unchanged if an inter-municipal agreement with respect to planning, development and municipal servicing for both the area south of the Perimeter, and for East St. Paul overall, is concluded within one year. This implicitly requires the adoption of a Development Plan for East St. Paul, prepared in consultation with the City and approved by the Province, under terms of *The Planning Act*. Such a planning, consultation, and negotiation process might well be facilitated by a new regional association of municipalities (see Recommendation 42).

5. *R.M. of Springfield*: The City's eastern boundary should be extended outward from Plessis

Road to Day Street between Gunn Road and Springfield Road. This change would resolve the access difficulty now existing with respect to this area and would result in the CPR North Transcona Yards being brought within the City's jurisdiction.

6. *R.M. of Ritchot*: The City's southern boundary east of the Red River should be established at the Red River Floodway. This change will mean that Ritchot land now north of the Floodway would become part of the City of Winnipeg, and City land south of the Floodway would become part of the R.M. of Ritchot. (Negotiations between the two parties to accomplish this change by agreement are underway at time of writing.)

The Committee recommends that its specific suggestions for boundary adjustments be further studied as to their detailed implications. Residents and councils of affected areas should be fully consulted during the course of this study. At the conclusion of this process, the Provincial Government should make a timely decision on adjustments to the City's boundaries, such that implementation of major related changes in the Act can proceed expeditiously.

Finally, the Committee recommends that boundary adjustments be accompanied as required by a comprehensive analysis of their impact on municipal revenues. Following this, a phased compensation arrangement should be considered, whereby both the rural municipality and the City, as the case may be, may be reimbursed in part for either their net loss of revenues or their net increase in service costs. Boundary changes should also be accomplished with a sensitive application of phased and gradual adjustments in the tax obligations of affected property owners.

Discussion

Assuming the abolition of the Additional Zone (see Recommendation 40), a clear demarcation of the City's boundaries for the foreseeable future is required. The fundamental basis for new boundaries, it seems to us, is the existing or planned distinction between urban and rural land uses and lifestyles. While no arbitrary rules or formulae can be applied in a mechanistic manner, judgments can and should be based on reasonably clear guidelines, such as housing densities, servicing standards, allowable land uses, and 'lifestyle'.

The basic principle that seems most appropriate to the Committee is simply that if land on the City's fringe is, or is officially designated to become, predominantly urban or suburban in nature, it should become part of the City of Winnipeg. Conversely, if that land is, or is designated to remain, primarily rural or agricultural in character (excluding of course the established towns or villages), there is neither need for nor advantage in, removing it from a rural municipality.

Future land use intentions, supported by policies and zoning committing a municipality to a clear course of action, are to be established in approved municipal plans. These official planning documents, together with the municipality's current record of approvals and land development practices, would provide the best evidence and operational basis for an ongoing process of boundary adjustment by the Provincial Government.

The Committee is strongly committed to the maintenance of a viable urban planning and development area for the City of Winnipeg. We are just as strongly committed to the

protection of the exurban environment and rural lifestyle, the strengthening of the symbiotic relationship between urban and rural residents in the Winnipeg region, and the safeguarding for future generations of productive agricultural lands.

Redefining the corporate limits and jurisdictions of all municipalities in the region, and establishing the basic 'rules of the game' with respect to ongoing modifications of those boundaries, should provide greater stability and predictability in inter-municipal relations. It is hoped also that an adjustment in boundaries now, boundaries that are unlikely to change for many years, will lay a new and relatively permanent foundation for improved mutual understanding and co-operation between the City and its rural neighbours.

The Committee rejects the City's initial contention that the Perimeter Highway and Red River Floodway, by virtue of their very existence, constitute now the 'natural' boundaries of the City. To us, the rationale for change is not the decisions made years ago for the routing of major provincial public works, no matter how prominent they are on the landscape. City officials, recognizing that the Perimeter Highway is largely of visual or symbolic importance as a municipal boundary, have shown increasing flexibility on this point.

At the same time, the Committee also rejects the implicit assertion of some rural councils that city-style development and service levels can be permitted, and that property tax benefits can thus be achieved, without substantial effect on the rural character of their areas or without adverse impacts on the city. Most of the rural Councils recognize these consequences and have resisted the temptation.

Our recommendations seek to make abundantly clear that if a rural municipality takes steps to become a dormitory suburb of the City, it will not be the beneficiary of such development. We urge the Province, through **The City of Winnipeg Act, The Planning Act**, and its plan and subdivision approval authority, to establish these principles clearly and set the new framework in place.

Rosser and Macdonald: Where no overriding need or principle is involved and where no major advantages can be achieved, the Committee takes the position that existing boundaries should be retained. In the cases of Rosser and Macdonald, we have no evidence that extension of the City's boundaries to the Perimeter Highway, as the City originally requested, is at all required or desirable.

Indeed, we view any expansion of city limits into these municipalities, which have adopted strong and effective commitments to preserving farmland, as counter-productive. It would result in still greater pressures on agricultural land values and would pave the way for yet another future round of urban development far from the city centre.

Headingley: The City has stated its clear intention, not to provide, for the foreseeable future, water and sewer services beyond the Perimeter Highway into Headingley. City officials have also expressed support for severing the Headingley area from the City.

Some residents of the area, for their part, claim to pay city-level realty taxes without getting adequate city-level services, such as roads, transit, and protection. The Committee has not had the opportunity to determine the validity of these allegations.

As the Committee did not have the opportunity to hear from many of the residents of the Headingley area, we urge their involvement in discussions about the area's future. From our perspective, however, we perceive the area as a predominantly rural area without the status of a rural municipality. It would appear beneficial, therefore, to permit the area to pursue its rural and agricultural future as either a separate municipality or as part of an existing rural municipality. As an important asset in the Winnipeg region, rural Headingley should be given the

opportunity to govern itself within the role that apparently all parties wish it to play.

We consider the area north of the Assiniboine River just west of the Perimeter, a band of approximately two kilometres in depth, to be of urban importance. We thus recommend that this area, which includes Assiniboia Downs, be retained within the City's boundaries.

West St. Paul: It appears to the Committee that West St. Paul has generally succeeded in salvaging most of its rural character and has largely resisted suburban-standard development. This has been achieved in the face of pressures to permit small lot residential subdivision and to accept less than desirable uses from the City. A West St. Paul no longer within the Additional Zone will have ample opportunity to demonstrate the strength of its commitment to rural lifestyles and the environment. We conclude, therefore, that, with one possible exception, major boundary adjustment in this area is not required at this time.

An exception to the municipality's record appears to exist, however, south of the Perimeter Highway between Main Street and the Red River. Here, a suburban-level subdivision has been developed. Consideration must be given, therefore, to moving the City limits out to the Perimeter east of Main Street.

A further tidying of the boundary—transferring to West St. Paul a small portion of City land north of the Perimeter—may also be useful, although not essential.

Of more importance, however, is the resolution of several legitimate and important grievances the R.M. of West St. Paul has with the City. These include the City's refusal, until recently, to provide landscaping and environmental improvements at its sludge beds and ash dump in the Municipality (despite a Clean Environment Commission order) and the fact that the City legally has discretion as to whether to pay grants-in-lieu of taxes on its property, and if it will, how much to pay to the R.M. (see Recommendation 45). The Committee is of the opinion that settling these grievances is of greater urgency and importance for improving the relationship between the two municipalities than boundary adjustment.

East St. Paul: The Committee concludes that existing and projected development in the southern area of East St. Paul south of the Perimeter Highway west of Lagimodiere Boulevard appears to meet a commonly-accepted standard of suburban, not rural residential, development. The long-held desire and specific request of the R.M. to pay for extension of City of Winnipeg services to this area is a demonstration of its development intent which, if achieved, would further blur any lingering distinction between this development area and the City's own suburbs.

Transfer of these lands to the City will only confirm their inevitable future as part of the urban fabric of Winnipeg. At the same time, it will better enable the East St. Paul Council to pursue its stated intention to preserve the rural residential and agricultural character of the remainder of the municipality.

Springfield: The relatively minor boundary change suggested here has the support of the R.M. Council and the City.

The Committee sees no reason to transfer to the City a large area in south Springfield south of St. Boniface Road and east from the current City boundary to the Red River Floodway. Indeed such a change (suggested by some City officials) would be contrary to the principles and guidelines recommended for boundary adjustment.

Ritchot: The boundary adjustment recommended in this area reflects an in-principle agreement between the City and the Rural Municipality of Ritchot. The Act presently contains an error in the legal description of the City's boundary in an area just north of the Red River Floodway,

an area from which Ritchot has been collecting realty taxes over the years. In return for this area, the City would release control of a larger parcel south of the Floodway, for which no development is planned or intended. The Floodway as the boundary would provide an improved definition of the City's servicing and urban development limits and of Ritchot's jurisdiction in the area east of the Red River.

To provide for improved acceptance of some of the 'bitter pills' of boundary changes, we recommend the preparation of an impact assessment and, as appropriate, the development and phased implementation of a financial adjustment program. Such a programme could provide a partial and gradual adjustment in municipal revenues, based on a calculation of net gains or losses. Similarly affected owners or property could be accorded a gradual adjustment in their municipal tax payments, both upwards and downwards.

We also urge a settlement of other outstanding disputes between the City and the rural municipalities as a means of encouraging the acceptance of boundary changes and of providing a cleaner slate as a foundation for a new and improved urban-rural relationship. An alternative, less desirable from our point of view, is for the resolution of outstanding grievances to be one of the first orders of business for a new Association of Winnipeg Region Municipalities (see Recommendation 42).

8.3 INTER-MUNICIPAL RELATIONS WITHIN THE WINNIPEG REGION

Recommendation 42 *Establishment of an Association of Winnipeg Region Municipalities*

The Review Committee recommends that the City of Winnipeg and the rural municipalities and/or planning districts within the Winnipeg region consider establishing a formal negotiation, planning, consultation, and advisory organization. For purposes of this recommendation, this organization is entitled the Association of Winnipeg Region Municipalities. Any needed amendments to *The City of Winnipeg Act* and/or *The Planning Act* could be made once the parties agree to establish the organization.

The geographical scope of activities of the Association would be the Winnipeg region. While not precisely defined at this time, the region should certainly include all City of Winnipeg lands outside Plan Winnipeg's established urban limit line and all rural municipality lands within perhaps thirty kilometres of the City of Winnipeg boundaries.

Most importantly, the region should also be defined as including a number of corridors—transportation, development, conservation, river, utility, and other regionally significant corridors—that penetrate either inside the City's urban limit line or outside the 30-kilometre line. For planning and study purposes, the "region" may otherwise be identified as the "Winnipeg commutershed," or the "Winnipeg-centred region," or the "Manitoba capital district," or other appropriate terminology.

With unanimous agreement, the participating parties may revise the Association's geographical scope and functions.

The AWRM should:

- Coordinate regularly-scheduled meetings and consultations on regional issues between participating municipalities in the Winnipeg region and the Manitoba Government;
- Provide independent staff advice and recommendations to participating municipal jurisdictions, and to the Provincial Minister(s) responsible for final approval, on the Winnipeg City Plan (Plan Winnipeg), the official development plans of the various municipalities, amendments to those plans, and other legislative decisions of regional importance and impact;
- Provide staff assistance in researching and negotiating inter-municipal agreements;
- Provide for negotiation and mediation of disputes and, if voluntarily requested by the parties involved, arbitration of disputes among participating municipalities and between municipalities and the Province; if mediation is unsuccessful, refer disputes with recommendations for settlement to the Provincial Cabinet or designated Cabinet committee;
- Initiate preparation of regional plans, draft policies, programs, and draft by-laws; and submit them for adoption by the City Council, by appropriate municipal Councils and, where desirable or required, by the Province of Manitoba;
- On land use and environmental matters it deems of significance to the region, the Association could:
 - review proposals and practices of the City and other municipalities in the region;
 - refer environmental issues and applications to the proposed Regional Environmental Review Panel (see Recommendation 39) for its review and recommendations; and
 - make recommendations to the responsible jurisdiction and/or to the Province as it determines appropriate;
- Assemble data and coordinate research on regional population, economic development, industrial location, tourism, finances, environment, and other relevant matters of importance to the region;
- Identify and provide research on the nature, magnitude, and significance of emerging problems facing the region, and on their solutions; and
- Perform other functions as the participating parties may determine.

The Association should be composed of equal numbers of elected officials from the City of Winnipeg and from other municipalities in the region. Representatives from each jurisdiction should be those elected officials most responsible for their municipality's policy development, planning, and inter-governmental relations.

Member municipalities or planning districts should include:

- The City of Winnipeg
- The Rural Municipality of Rosser/South Interlake Planning District
- The Rural Municipality of West St. Paul

- The Rural Municipality of East St. Paul
- The Rural Municipality of Springfield
- The Rural Municipality of Ritchot/Macdonald-Ritchot Planning District
- The Rural Municipality of Macdonald/Macdonald-Ritchot Planning District
- The future municipality representing the Headingley area.

The number of Association members may be altered at any time by unanimous agreement of the parties, so long as the principle of equal voting representation remains unchanged. Similarly, as other jurisdictions may be admitted to membership in the Association, as examples, the Selkirk Planning District, the South Interlake Planning District, the R.M. of St. Francois Xavier, the R.M. of Tache, and others, the equal membership principle among participating jurisdictional groups should be maintained.

Members selected from the various jurisdictions would serve at the pleasure of their Councils.

Participating municipalities should be obliged to refer their draft and final municipal plans, proposed amendments thereto, land use policies, applications and proposed actions of regional environmental significance, and other proposals of regional importance and impact, to the Association for its advice and recommendations.

Decisions on matters within the mandate of the Association may be taken by majority vote of those members present. Minority reports and representations on recommendations of the Association should be permitted and included in the relevant communications of the Association.

The Association should have a small independent staff headed by a Director. The Director should not be an elected or appointed official of any of the participating jurisdictions.

The Director should be hired under contract for a five year term. The Director would be responsible for the general management and operations of the Association. She or he would select and supervise staff; administer the budget and resources of the Association; and coordinate, provide needed assistance and advice to Association members; and perform other duties as the members may determine.

The Association should appoint Advisory Committees, composed of respected independent citizens, who may advise the Association on any matter within its mandate and scope.

The Association should be afforded an adequate annual operating budget, cost shared by the participating municipalities. The Province should contribute at least 50 per cent of the required start-up funds. The City and the rural municipalities should contribute the remainder on a formula basis, perhaps on a *per capita* or an assessed value basis.

Discussion

Adoption of the Review Committee's earlier recommendation to eliminate the "Additional Zone" (see Recommendation 40) will eliminate the remaining authority of the City over land use decisions in the urban fringe. In the absence of the City's authority in former Additional Zone lands, final decision-making authority over land use and

development in the rural municipalities would once again be vested in the hands of the Minister of Municipal Affairs, or be delegated to Provincially-approved Planning Districts, under the terms of the Planning Act.

Removal of the Additional Zone thus leaves a vacuum in formal institutional arrangements between the City and its neighbours. Both the City and the rural municipalities would likely pursue their legitimate municipal and regional interests through direct requests to the Provincial Government for funds, intervention, and decisions.

In future, the City's interests in the rural municipalities will involve items as diverse as waste disposal sites, recreational areas, rail relocation lands, Perimeter Highway development, growth of bedroom communities, use of City facilities by rural residents, water supply installations, highway and road improvements, and a host of other regional issues. The Committee recognizes a need to create a mechanism that improves upon the former arrangements and that sustains communication and problem-solving among the region's municipal governments and the Province.

Rural municipalities, on the other hand, have never been afforded the ability to provide significant input to, and to influence the decisions of, Winnipeg City Council in areas within the City that affect their own interests, for example, suburban subdivision and regional shopping centre development, installation of roads, sewer trunks and water mains, industrial sites, Perimeter Highway planning, siting of waste disposal and other nuisance facilities, and Plan Winnipeg. With the removal of the Additional Zone, they regain control over all lands within their boundaries, including City-owned lands, lands the City may acquire in future, and the use to which the City wishes to put land it owns in the municipality. The Committee recognizes a need here as well for an inter-governmental mechanism that not only allows the rural municipalities a significant say in those decisions but also facilitates negotiated inter-municipal agreements to provide for future needs in a changing regional environment.

The Committee acknowledges, however, that the history of voluntary cooperation among some municipalities in the Winnipeg area is not encouraging. In pre-Metro days there were a number of regional boards or commissions with a statutory mandate but where membership was optional. Municipalities tended to opt in or out depending on their stake in the service. Thus some upstream municipalities refused to form the Greater Winnipeg Sanitary District and share in the cost of sewage treatment. Several municipalities refused to form the Metropolitan Planning Commission and the Mosquito Abatement Board. Transcona was not part of the Greater Winnipeg Transit Commission. Given the option, therefore, municipalities have tended to take a very narrow view of where their interests lay.

We believe, however, that times have changed and that a greater potential for cooperation exists today than previously. We also believe that the probability of effective problem-solving within the Winnipeg region will be substantially improved with the abolition of the Additional Zone.

A cooperative regional consultation, planning and negotiation mechanism is both desirable and, we believe, needed to deal with the many existing and especially future issues of a regional or inter-municipal nature. The Committee recommends, therefore, the creation of a new political institution, comprised of elected officials, whose activities will be based on the principles of equality among the jurisdictions, inter-municipal cooperation and problem-solving, and solution of regional problems. This institution we call the Association of Winnipeg Region Municipalities.

We suggest that such an Association would serve a needed purpose. Through this mechanism, the governments of

the Winnipeg region would consult with each other on a sustained and equal basis on issues of mutual and regional concern. It would be the ongoing forum through which they would strive to reach consensus and to establish agreements among themselves that reflect and reconcile the needs and interests of the City of Winnipeg, the rural municipalities around the City, and the Provincial Government. The mechanism would encourage the parties to reach negotiated or self-arbitrated settlements without the necessity of appealing disputes to the Manitoba Municipal Board or requesting adjudication by Provincial ministers. The Association would also be the vehicle through which region-wide studies, plans, and legislative recommendations might be initiated and recommended to the appropriate jurisdiction for action.

Should this type of organization prove successful, but also reveal the need in future for a stronger mechanism, perhaps directly involving the Provincial Government, a successor organization could be formed with limited decision-making authority.

This Association is clearly not a new layer of regional government, as in Ontario. It is also not to constitute another level of bureaucracy. Nor is it an enlarged Manitoba-style planning district for Winnipeg City and area, created under terms of **The Planning Act**. Whatever may be the desirability of such models for the future, they are neither needed nor politically acceptable at the present time.

We recognize the existing limitations on acceptability of any new regional institution. Our extensive consultations with all parties have clearly shown their reluctance to involve themselves too deeply. On the other hand, some officials support the Committee's suggestion. Others believe politicians will not participate unless the organization has real authority to make effective decisions. While we believe that real authority for a regional institution is a desirable development, we must conclude, however, that the time is probably not yet ripe for an institutionalized sharing of power among them. This may or may not be desirable and may or may not come in future.

For the present, we see the need for giving the Province, the City, and the rural municipalities the time and the institutional forum to get to know each other better and to appreciate their mutual goals and interdependencies. We see the Association as being, therefore, a dynamic meeting place of elected officials. We do not intend the Association to be, or be perceived as a merely advisory organization. It is designed to provide for, indeed require, early, full and frank interchange among involved parties. It is directed toward solving problems and facilitating positive 'deal-making'. As such, we also believe the Provincial Government will see the Association as of benefit in its exercise of provincial prerogatives and in its response to the demands of its municipal constituents.

The Committee initially believed it most desirable and to an extent necessary to bring the Province into this new mechanism as an active initial and ongoing participant. We thought the Province should be present in order to declare explicitly its legitimate Provincial interests. By bringing to bear its influence at the table in forging agreements among the parties, the Province might relieve some of the pressures and political tactics the municipalities often bring to bear and minimize the need to exercise its ultimate adjudication powers.

Given the constitutional framework, however, we recognize that the Provincial Government can never participate directly in such a regional forum as an equal. It will always be more than equal, because of its legal and financial superiority and because it retains the ultimate power of decision and arbitration over contending municipalities. Consequently, one may question whether it is appropriate for Provincial Ministers to participate in Association

discussions and recommendations on plans or disputes which they may later be called upon to resolve.

Furthermore, the Province's presence could change the dynamics of Association meetings and render the institution less valuable as a negotiating instrument, an independent advisory body, or a municipal lobby in relation to the Province. If the goal of a body such as the Association is to involve the Provincial Government in matters of regional concern, this might be better achieved through the transmittal of policy concerns (for instance, discussion papers and Ministerial statements), proposed legislation, budgetary and grants proposals, and *ad hoc* meetings on local government disputes, rather than formal and direct involvement as an Association member.

We therefore strongly urge the Provincial Government actively to support this new regional initiative, commit its resources and participation, provide the Association with necessary start-up and special funds, and help to build it into a meaningful and effective device for solving regional problems. We believe that such an institution will be seen by the Province to be an aid to its own internal coordination and decision-making responsibilities, and therefore in both its own and its municipalities best interests.

To maximize the good will among the parties and to afford the new Association the best chances of success in meeting its objectives, we further suggest that as many of the existing grievances and impediments to regional cooperation be cleared away prior to the Association's formal establishment. We therefore recommend:

- Adjustment and establishment of new boundaries between the City and its surrounding rural municipalities (see Recommendation 41);
- Adoption and Provincial approval of official Development Plans or Basic Planning Statements for all rural municipalities in the region which currently do not have them;
- Adoption and issuance by the Provincial Government of "Land Use Policies for the Winnipeg Region" (including the City of Winnipeg), which clearly establishes the Province's regional policy, regulatory, and financial commitments (see Recommendation 25); and
- Resolution of all major disputes between the City and the adjacent rural municipalities, for example:
 - grants-in-lieu of taxes on City-owned property in rural municipalities (see Recommendation 45);
 - landscaping and closure of the City's sludge beds and ash dump in West St. Paul;
 - phased implementation of revenue and tax adjustments to mitigate adverse impacts resulting from boundary adjustments.

The Committee considers it important for as many of these items as possible to be settled by agreement or to be decided by the Province itself, prior to the establishment of the Association. Rather than placing them on the first agendas of the Association, we believe it best that old grievances be put to bed and new challenges be the organization's first order of business.

8.3 INTER-MUNICIPAL RELATIONS WITHIN THE WINNIPEG REGION

Recommendation 43 Power of City to Acquire Land in Other Municipalities

The Review Committee recommends that City Council be authorized to acquire or dispose of land in other municipalities by purchase, sale, exchange, donation, lease, mortgage, or other means, at its discretion [section 147(1)]. Further to its acquisi-

tion of property, City Council would be required to adhere to all requirements of the host municipality and Province as to land use and environmental approvals (see Recommendation 44).

The Review Committee also suggests that the City be authorized to expropriate land in other municipalities within the Winnipeg region under the terms and conditions of *The Expropriation Act* (section 146, 149). Prior to initiation of expropriation proceedings, the City should be required to refer the matter to the Association of Winnipeg Region Municipalities for its comment and recommendation to the Provincial Government.

Discussion

This recommendation is partly a housekeeping amendment required as a result of the proposed abolition of the Additional Zone. The City's extraterritorial prerogatives now contained in the Act would be replaced with a general enabling clause authorizing land acquisition in other municipalities, especially those within the Winnipeg region. The requirement to adhere to the application and approval requirements of other municipalities is consistent with our theme of eliminating the City's privileged "first among equals" position relative to its neighbours.

At the same time, to provide for its future needs, the City requires special access to the power of expropriation to acquire lands outside its boundaries for development, disposal, conservation, or other uses. These future needs should be provided for in a fair and equitable manner, one that provides for input from all concerned jurisdictions within the region. The Committee suggests including a statutory guarantee of early notification, consultation, a procedure for resolution of disputes, and a requirement for regional comment and recommendation. The Committee considers the proposed Association of Winnipeg Region Municipalities a good mechanism for such purposes (see Recommendation 42).

8.3 INTER-MUNICIPAL RELATIONS WITHIN THE WINNIPEG REGION

Recommendation 44 *City Adherence to Approval Requirements of Other Municipalities*

The Review Committee recommends that the City be obliged to make such applications as are required for development plan amendments, zoning approvals, development agreements, and any other needed approvals to any municipality holding jurisdiction over the use, zoning, development or redevelopment of City-owned lands outside its boundaries. In other words, the City must conform with all public hearing and other approval requirements of another municipality as provided in its by-laws, *The Municipal Act*, *The Planning Act*, or other relevant statutes.

Prior to second reading and a public hearing, the City should forward, and the municipality should refer, all such applications to the Association of Winnipeg Region Municipalities for review and recommendation.

Discussion

Abolition of the Additional Zone requires such new provisions to clarify the rights and obligations of the City regarding use of land in other municipalities.

Such provisions should remove one of the major grievances that some rural municipalities have had with the City, namely that the City could do what it wished in the Additional Zone area without going through normal municipal approval processes. A more acceptable process of negotiated agreements would replace the essentially unilateral practice of the Additional Zone years.

8.3 INTER-MUNICIPAL RELATIONS WITHIN THE WINNIPEG REGION

Recommendation 45 *City to Pay Full Grants-in-lieu of Taxes to Other Municipalities*

The Review Committee recommends that Section 659 of the City of *The City of Winnipeg Act* be amended to require the City to pay a grant in lieu of property taxes for each land parcel it owns or holds in trust in another municipality. The Committee recommends that this same principle be applied to the Province in its grants-in-lieu to the City.

The section should be further amended to provide that the grant paid should be equal to the full real property tax that would normally be payable to the municipality.

Finally, the Review Committee, cognizant of the potentially significant financial impacts on both the City and the host municipalities or local government districts, suggests that a study of the implications of this change be undertaken and that steps be taken to provide a smooth transition to full grants-in-lieu. This study should also include a consideration of specific exemptions to the principles of full grants-in-lieu with respect to City-owned parkland and the Greater Winnipeg Water District Railway lands located in rural municipalities.

Discussion

Additional Zone municipalities have complained vigorously about the City's alleged unfair use of its discretion regarding payment of grants-in-lieu of taxes. The City makes the same charge against the Province. Under the Act at present, the City may choose to pay a grant, and if it does so, may itself set the amount of its grant to the host municipality. The abolition of the Additional Zone will eliminate the discretion, and reassessment of values, when completed, will we hope eliminate any sense of inequity.

The basic principle expressed in this recommendation is that one municipality should not be in a privileged tax position relative to another municipality. A fair and equitable system of tax payments among municipalities in the Winnipeg region should be observed.

The *Municipal Act* provides that the Provincial Government, on its properties held in municipalities, will pay grants-in-lieu equivalent to full municipal and school taxes. (A few exceptions are provided for specific government agencies in other statutes.) The same basic principle and obligation should be applied between the City of Winnipeg and other municipalities, as it is between the Province and the City.

This recommendation departs to some degree from those contained in *A Fair Way to Share* the 1981 Weir Commission report (see its Recommendations IV-C-2 and IV-K-1).

SECTION 9: THE CITY AND ITS RESIDENTS

Introduction and Summary

The first prerequisite of resident involvement is information. As a first step the Review Committee makes recommendations designed to improve the flow of information from the City to its residents. We call for a report to residents on the City's statutory obligations, the adoption of an access to information by-law, the provision of municipal information to residents and the implementation of a records management system.

The second aspect of the Committee's recommendations deal with the controversial and innovative sections of the Act which provide for a formal institutionalization of resident involvement through the creation of Residents' Advisory Groups (RAGs).

Sections 21(1) and (4) of the Act read:

21(1) A residents' advisory group may be elected at any community conference...by the residents of the community who are present, from their number.

21(4) The role of a residents' advisory group is to advise and assist the members of the Community Committee for the community at whose conference they were elected, as to the performance of their functions under this Act.

The relationship of the RAGs to the elected Councillors is not spelled out in the Act. It has been left up to each Community Committee and to the members of the RAG.

The Committee's recommendations suggest that the Act should require the City to deliberate on the issue of resident involvement, and to find ways of involving residents between elections. The Committee believes that the Act should not pick one method of resident involvement as against another; the method should be developed by Council itself. The Committee comes to the conclusion that Council itself should within three years decide whether RAGs should be kept. The Committee makes some recommendations that would enhance the involvement of residents and help RAGs perform their current functions in a more effective manner.

The Committee deals particularly with the rights of the Francophone community of Winnipeg through three recommendations that would provide for the provision of services in both official languages in certain parts of Winnipeg.

The Committee recommends the deletion of all references to referenda in the Act.

Finally, the Committee recommends the appointment by City Council of a City of Winnipeg Ombudsman who would perform, in addition to the normal role of investigating and conciliating residents' complaints about governmental treatment, other tasks relating to resident involvement, monitoring the City's performance of its statutory obligations, and providing an appeal on matters relating to access to information.

The Committee wishes to stress its view that resident involvement between elections is an important aspect of municipal government. It believes that resident involvement can assist elected representatives in making decisions in an effective and efficient manner that in the long run will be of great benefit to the City.

9.1 INFORMATION

Recommendation 46 Executive Committee Required to Submit Report on Fulfillment of Council's Statutory Obligations

The Review Committee recommends that the Act require the Executive Committee to submit a statement as part of the Annual Report on the fulfillment of four of Council's statutory obligations (see Recommendation 8):

- The annual declaration on amendments to the Winnipeg City Plan (see Recommendation 25);
- Adoption and operation of an access to information by-law (see Recommendation 47);
- Involvement of residents pursuant to Section 23 as amended (see Recommendation 51); and
- Communication with residents in both official languages (see Recommendation 55).

Discussion:

This recommendation proposes that Council be required, in a public report, to set out clearly what it is required to do by law, and to explain how it is living up to its obligations. Such information improves political accountability and the ability of aggrieved citizens to seek redress.

This report is the first of two techniques recommended by the Committee to ensure that the statutory obligations imposed on Council are publicized.

The second involves the Ombudsman (see Recommendation 59). We propose that one of the duties of the Ombudsman should be to give a report on how the City has met its statutory obligations. That report provides the counterpoint to the report required from the Council itself.

9.1 INFORMATION

Recommendation 47 Council Required to Adopt An Access to Information By-law

The Review Committee recommends that the City of Winnipeg Act require City Council to adopt an access to information by-law which would establish the means and procedures by which the City will provide for the public's right to information.

The Act should require that this by-law include:

- A clear specification of the limitations and exemptions placed on the public's right to access municipal information; and
- The procedures for review by the City Ombudsman of the City's decision to deny access to specific information.

Discussion

Openness in government and the availability of information are prerequisites to informed debate about civic issues. Disclosure of the information upon which City decisions are made will enhance the legitimacy or acceptability of the decisions. The greater the secrecy, the greater the difficulty of gaining public acceptance, and probably the worse the decisions.

No doubt it will always be necessary to impose some limitations on the principle that in a democracy all decisions should be "open decisions openly arrived at," but in a mature democracy those limitations must be kept to a minimum and ultimately be adjudicated by a neutral third party. We agree, however, that the need for openness

must be balanced by the need to protect personal and (in some instances) organizational privacy and by a concern for the efficiency and effectiveness of city government.

The position of the Review Committee is that there should be a statutory basis for the right of the public to have access to city documents, and that the City Council should be required to set its own access to information policy by means of a by-law. We believe access to information is too important a political right to leave entirely to the discretion of government.

Traditionally city government has been more open in its operations than the provincial or federal levels of government. Indeed the City hastened the initiative to draft a by-law on access to information, without being required to do so by the Act. On April 9, 1984 the Executive Policy Committee appointed a three-member Ad Hoc Committee to review the City's policy with respect to access to information. On September 17, 1984 the Ad Hoc Committee presented a draft by-law to the Executive Policy Committee. On December 12, 1984 the Executive Policy Committee recommended to Council that before the access to information by-law could be passed, an amendment to **The City of Winnipeg Act** was required to enable individuals to appeal refusals of access to documents to a Judge of the Court of Queen's Bench. If the amendment was not passed by the Manitoba Legislative Assembly during its 1985 session (which was the case), the Council agreed to reconsider the by-law to determine what could be done within the Council's present jurisdiction. This is where the issue stood as of November, 1985.

The Review Committee's suggestions for a desirable access to information by-law are enumerated at some length in Recommendation 48. The Review Committee asserts that it is appropriate for the City of Winnipeg to legislate its own information policy rather than have such a policy set by the Legislative Assembly on the initiative of a provincial government. Such an information policy should involve not only the consideration of access by citizens to official documents, but also the requirements for publicity regarding city plans and city programs (see Recommendation 49).

Experience in other jurisdictions shows that a guarantee of the availability of information contributes only marginally to public awareness and involvement with government. A comprehensive information policy must incorporate efforts to publicize city activities, to identify clearly the sources for various types of information, to provide an expeditious remedy in the event of denial, and to provide protection against disclosure in those limited areas where sensitive information is involved. Attention must also be paid to the storage, dissemination and preservation of city records (see Recommendation 50).

9.1 INFORMATION

Recommendation 48 *Improving the Proposed Appeal Process Regarding Access to Information*

The Review Committee recommends that the City's access to information by-law provide the broadest practical access to the public and the most effective and efficient process of appeals from decisions to deny access.

In general, exemptions should be few and precisely defined, and the burden of proof ought to be placed on those wishing to deny the request. The by-law should also contain provision for review of performance under the legislation and Council's access policy.

In the event of denial of a request for information, the appeal mechanism in the first instance should be a simple, expeditious and inexpensive procedure readily understood and available to all citizens. We recommend, therefore, the appointment of a single official known as the City Ombudsman (see Recommendation 59), removed from the regular City departments, who would review denials of access to City documents upon request.

The recommendations of the Ombudsman would not be binding upon the City's officials. The Ombudsman would, however, have the authority to inspect all relevant documents and the Ombudsman's recommendations would be public. The Ombudsman would not have legal authority to order the release of documents, as this power would exclude the Ombudsman from participation in the appeal process before the Municipal Tribunal.

Appeal would be to the Municipal Tribunal (see Recommendation 61). The Tribunal's decision on whether a particular document(s) should be made public would be final and binding. The Tribunal would have the authority to examine all pertinent documents and to hold a hearing in private if that were deemed appropriate.

At the time of the initial denial and in any subsequent recommendation by the Ombudsman, an applicant should be informed in writing of the right to appeal the decision of a City department. An applicant or the Ombudsman should have the right to appeal to the Tribunal. The Ombudsman should be able to support the appeal of an applicant or initiate an appeal when an important issue of public law is involved.

Discussion

It is easier to state the abstract principles which should be reflected in an access to information by-law than it is to formulate an actual working model. While the Committee has sought to avoid direct commentary on current or emerging city policies, some discussion of the proposed information by-law is appropriate. Given that this is a new, experimental field of public law, it would be presumptuous for the Committee to be severe in its criticisms. The proposed by-law represents a valuable first step and there are many positive features to it.

There are a number of features of the proposed by-law which in practice, however, could unduly restrict the visibility or transparency of city operations.

Two crucial aspects of any freedom of information policy are the exemptions to the general rule of access and the procedures for dealing with denials of access. These two features are interrelated; more broadly worded exemptions would be more acceptable if the ultimate resolution of disputes respecting the release of documents would be performed by an independent third party.

Exemptions

The most important feature of access legislation is the list of exemptions. The widely accepted principle is that these should be as few in number and as precisely worded as possible. The proposed by-law disappoints on both scores: the list of exemptions is too long and too vague. The principle of the public's right to know could be swallowed up by the exceptions.

It is not necessary to offer a detailed critique of clause 5 of the by-law which lists the exemptions; instead some of its more questionable features will be highlighted. The

clause begins by saying that access will be granted unless it is determined that the document does not exist or is not in the possession of the City, or is not the property of the City and the owner has not consented to its release, or if "it is not in the public interest to provide access" [clause 5(a)(iii)].

The concept of the "public interest" is an empty phrase into which meaning must be read, and clause 5(b) seeks to do this by enumerating fourteen types of information which would **not** be in "the public interest" to release. Many of the categories of information protected against disclosure by the by-law are familiar, being found in most other such legislation, such as information related to law enforcement, personal privacy, lawyer-client dealings, commercial information and policy advice.

It is important to note, however, that the Report of the Ad Hoc Committee of Council interprets clause 5(b) to be a "non-exhaustive list of restrictions on access" (page 4 of Report). This has the result that access can be denied on the basis of clause 5(b)(iii) (the public interest), even though the basis for such a denial is not enumerated in Section 5(b). In other words, both the Board of Commissioners and the Court could invoke the amorphous and highly subjective concept of the public interest to deny access.

Section 5(6)(xiv), provides protection for the "advice, recommendations, consultations, and deliberations by or for the City with a view to formulating a policy." Once a city policy has been adopted, access to such background information will be available to the public only to the extent that release of such advice and recommendations would not "unreasonably impede the implementation of the policy." After twenty years, all background information would be open.

Even recognizing the need for frank internal debate within the administrative branch of city government—which could be inhibited by premature disclosure—the clause described above is far too sweeping in its potential coverage. Unlike other access laws, the city's draft by-law does not distinguish clearly between factual background information which supports decision-making and the policy advice or recommendations of public servants whose reputations for political impartiality must be protected by confidentiality.

Clauses 3 and 4 of the by-law provide that the individual Commissioner and the Board of Commissioners, when dealing with requests can comply in part. Something like the distinction between factual background material and policy advice may lie behind this provision. However, the by-law should make the distinction clearer so that it becomes part of the norms of operation within the civic administration. The by-law should also provide the right of the Ombudsman to recommend, or the Municipal Tribunal to order, the severance of factual material from policy advice to enable wide disclosure to occur.

The status that consultants' reports will have under the proposed by-law is not clear. Typically, their reports are both the property and "in the possession" of the city. It has been the practice of the City that when consultants' reports are forwarded to Council the reports become public information and we urge that this practice continue.

In Recommendation 50 we address the need for a modern records management system to ensure that there are records and information preserved for inspection. Here it is sufficient to note that access to information policy codified in a by-law should be viewed in the context of an overall records management system.

Unfortunately the by-law does not provide for a mandatory review of the legislation after a certain number of years. Such a review would allow for the fine tuning of the by-law. It would enable users, the Ombudsman proposed by the Review Committee, Councillors, and municipal employees to point out ways in which the by-law is not

working and how it could be improved. While deficiencies in the pending by-law could be corrected by the Council before final passage, it would still be useful to review the by-law after several years.

Procedures for Dealing with Denials of Access

A second key feature of access legislation is the procedures for dealing with denials of access.

The appeal mechanism provided for in the proposed information by-law is, in the first instance, to the City's Board of Commissioners. (Subject to approval of the City's proposed amendment by the Manitoba Legislative Assembly, a further appeal would be allowed to a Judge of the Court of Queen's Bench.) The first stage of the appeal process involves a recommendation to the Board of Commissioners by the individual Commissioner responsible for the department or administrative unit holding the particular document.

The public may not have great confidence in the fairness of this initial review process because a superior administrative officer is called upon to overrule subordinate staff publicly, and because a group of senior administrators will be asked to question the judgement of one of their peers.

Under access to information schemes in other jurisdictions, the initial appeal is to an independent information commissioner separated from the regular administrative apparatus and reporting to the legislature at-large. Such an information commissioner makes recommendations to departments respecting release of documents, but cannot issue binding orders. The powers of the commissioner are, therefore, those of persuasion and, if needed, publicity.

Though lacking legal authority to order the release of documents, information commissioners are not powerless; the evidence from other jurisdictions suggests that the ability of the commissioner to persuade departments to release information is enhanced by the fact that the commissioner cannot issue binding orders. Also, if a legally binding determination had been made, the information commissioner could not assist individuals in proceeding to the court, a useful role to be played by such an officer.

In summary, the Review Committee suggests that the first review mechanism should be a simple, expeditious and inexpensive procedure through an independent statutory officer, so as to forestall litigation which will be time consuming and undoubtedly expensive. The bulk of the cases involving the denial of requests we believe can be resolved satisfactorily through this mechanism.

The public must have absolute confidence in the integrity and the fairness of such a procedure if primary reliance is to be placed upon it. This would not be the case if initial review were provided by the Board of Commissioners or indeed any civic official who didn't report to Council.

If the concept of the independent information officer is accepted, such an officer should be given the right to take cases to court. In addition, the Ombudsman should be allowed to bring complaints about the timing of the release of documents and the fees to be charged for reproduction of documents. Therefore we recommend that an independent statutory officer—our suggested City Ombudsman (see Recommendation 59)—be assigned the responsibility of reviewing denials of access to City documents in the first instance.

Further Comments

Several City Councillors and City officials who discussed these questions with the Review Committee suggested that there was no great public demand for City documents and that most requests were met. They maintained that there was not a serious problem of administrative or

political secrecy at City Hall, that any information officer would have little to do, and that City Council would be reluctant to vote the money to establish such a new office. The Committee has taken this practical concern into account by combining this information access appeal function with a number of other responsibilities of the Ombudsman.

It is also possible that the demand for the Ombudsman's services in access to information cases may rise in future. We have encountered a number of cases where obtaining information in a timely manner was a problem for citizens. The adoption and operation of an information by-law may itself encourage greater citizen awareness and involvement in the City's activities. We recognize that individuals and groups who are already knowledgeable and politically sophisticated in their dealings with City Hall will likely benefit most from greater openness in the initial period, but we also believe that the benefits of any access by-law will eventually reach a much wider segment of Winnipeg society.

The proposed information by-law provides that any person refused access to a document may submit an appeal in writing to a Judge of the Court of Queen's Bench. In considering the appeal, the Judge may review all documents and records pertinent to a determination of the appeal and may examine such documents and hold hearings in camera if this is deemed appropriate. The majority of the Review Committee agrees with these further appeal functions, but suggests that a Municipal Tribunal be established and designated for judicial appeal on access to information cases (see Recommendation 61). The Tribunal, we believe, will provide speedier, less technical, and less expensive determination of rights and redress of grievances.

Mr. Thomas and Mr. MacDonald dissent from the Review Committee's recommendation on the formation of a Municipal Tribunal (see Recommendation 61).

9.1 INFORMATION

Recommendation 49 *Provision of Municipal Information to Residents*

The Review Committee recommends that the City consider additional and improved techniques by which information on municipal activities and programmes can be publicized and provided to residents.

Discussion

Protecting the public's right to information (Recommendation 48) is a different task from providing and publicizing information on the City's activities and programmes. Just as access to information on request should be maximized, so should provision of information without request.

The further development of the information service within the City's administration should be considered. City departments are probably in the best position to determine the publicity requirements for their programmes and services so that a large centralized information service is not appropriate. An information office with a greater staff complement would, however, seem to be a useful innovation. Particular attention should be paid by this office to publicity and publication, in advance, of major issues to be dealt with by City Council and Community Committees. A budget for publicizing forthcoming Council and other meetings in the print media should be provided for such information purposes.

We live in an age of more information than we can assimilate from more sources than we can accommodate. There is a very competitive market for the attention of

Winnipeg residents. In this marketplace the City does not do a very good job of telling its story and the Review Committee urges Council to take steps to reach more residents with more information about the City and its activities.

Various studies indicate that most residents derive the greatest part of their information about municipal government from daily newspapers. Winnipeg's newspapers do an average job of reporting on civic affairs. A brief study on the number of civic affairs items carried by dailies in selected metropolitan areas from October 1984 to March 1985 revealed this relationship:

City	Number of civic affairs items per capita (October 84—March 85)
Winnipeg	100
Brandon	78
Edmonton	41
Hamilton	67
Ottawa/Hull	171
Quebec City	103

The extensive coverage of civic affairs in Ottawa/Hull may well be related to the comprehensive information policies and practices followed by the City of Ottawa. We urge Council to investigate these policies and practices, and those of other cities, and to seek out innovative means of telling the City's story.

9.1 INFORMATION

Recommendation 50 *Implementation of a Records Management System*

The Review Committee recommends that the Act be amended by replacing section 658(1) through (7) with provisions prescribing definitions of terms; the authority and terms of reference of a City Records Committee; the appointment and duties of a City Archivist; conditions regarding the destruction and copying of records; and terms of reference relating to access to information and records (see Recommendation 47).

The Review Committee recommends that the Act require that no record or information created or held by any department, commission, committee or agency of the City may be destroyed or removed by any person outside the mechanisms and means established by a City Records Committee, without knowledge of the City Archivist and the approval of the City Records Committee.

The Review Committee further recommends that the Act should require that the Executive Committee establish a City Records Committee to be responsible for and report on the management and condition of records keeping and information handling, and to determine suitable retention and disposal authority and procedures for all city records. The City Archivist should be the chairperson of the City Records Committee.

The Committee also recommends that the Act prescribe the appointment of an administrative officer, known as the City Archivist, who will, under the authority of the City Records Committee:

- Establish and administer a records and information management programme according to prevailing professional standards;
- Organize and administer the City of Winnipeg Archives to preserve those records of city gov-

ernment designated by the City Records Committee as of enduring significance and other archival documentation relating to the history and development of Winnipeg; and

- Encourage, promote and conduct research into the history, government and public life of the city through programmes of information, assistance, coordination and guidance for public officials, city-based organizations and the general public.

Discussion

Public records are public property, owned by the people in the same sense that the citizens own their courthouse or town hall, sidewalks and streets, funds in the treasury. They are held in trust for the citizens by custodians—usually the heads of agencies in which the records have been accumulated ... As public property, public records may no more be altered, defaced, mutilated or removed from custody than public funds may be embezzled or misappropriated. Indeed, because records document the conduct of the public's business—including the protection of rights, privileges and property of individual citizens—they constitute a species of public property of a higher value than buildings, equipment and even money, all of which usually can be replaced by the simple resort to additional taxes. It is the unique value and irreplaceable nature of records that give them a sanctity uncharacteristic of other kinds of property and that account for the emergence of common-law principles governing their protection.*

The Review Committee recommends the application of these principles to all records, regardless of form, which may be generated or received by public authorities in the course of their daily business. We believe legislation and administration affording definition, controls and access should derive from these ideas. The current statutory requirements do not spring from such concerns, and the Committee proposes certain amendments to clarify the terms of the City government's responsibility.

In the course of our public hearings the Review Committee received several briefs on this topic from individuals and groups, including the Association of Manitoba Archivists. We are persuaded by these presentations, and by our own observations, that Winnipeg's records management system is not equal to the standard which should be in place. We also observe that the benefits of a modern records management system in terms of cost savings and increased and efficient access to records have yet to be recognized by the City. The responsibility of the municipal government to secure and preserve valuable records and to make these available to citizens must be recognized in explicit terms.

The Act does not define city records. No part of the city administration (excepting the City Clerk, and only by inference) is charged with specific responsibility for the management of records and information. No explicit policy on the retention of records is administered consistently throughout the civic bureaucracy. The City Clerk leaves the disposition and disposal of records to the judgement of the Provincial Archivist.

In all respects Provincial legislation treats the City of Winnipeg like a small municipality where records-keeping

is a task of minor importance and where protection of permanent records can most usefully and economically be offered by the Provincial Archives. Although the records provisions of **The Municipal Act** were applied to the City in 1971 and a 1975 amendment to **The City of Winnipeg Act** moved in the direction of records management, the legislation in this important area of city responsibility remains sketchy.

The Review Committee recommends that the significance and volume of the City's records and information management responsibilities be explicitly and fully recognized in **The City of Winnipeg Act** and that **The Municipal Act** not be applied to the City.

A specific section is needed under the title "Records and Information" in which a number of clauses require legal articulation.

To clarify and specify the dimensions of the required records management system, a list of definitions should be included, for example:

- Records—any records created or held by departments, commissions, committee and agencies of the City of Winnipeg, regardless of physical form or characteristics;
- Information—any data recorded in human or machine readable form;
- Records management—application of systematic controls to the creation, distribution, utilization, retention, storage, retrieval, care, disposition and preservation of all forms of recorded information;
- City archivist—official of the City of Winnipeg responsible for the protection, management and use of city records;
- Access—inspection and, where unrestricted, copying of city records.

To establish the authority and procedures for records management, we conclude that the Act should require that the Executive Committee establish a City Records Committee.

The thrust of these recommendations is to place responsibility for a central city management function—records and information—in the hands of professional staff. The current *ad hoc* measures for safekeeping would be replaced by a formal, dynamic responsibility for measures, mechanisms and policies to ensure adequate protection of records and availability of information. All detailed particulars for retention and disposition should be withheld from the statute and from any council by-law, and be made simply a part of the records management process.

9.2 RESIDENT INVOLVEMENT

Recommendation 51 Council to be Required to Establish Means of Involving Residents

The Review Committee recommends that section 23 of **The City of Winnipeg Act** be retained with amendments imposing on Council, as well as Community Committees, the obligation to develop and implement techniques of resident involvement.

Discussion

The Present section 23 of the Act, titled "Responsibilities of Community Committee," obliges the Community Committees to hear the views of residents, to inform residents on City policies, programmes and budgets, and to solicit advice from RAGs on land-use planning.

The Committee believes that these statutory obligations should be retained with certain amendments to bind Council as well as Community Committees. The amended

*H.G. Jones, *Local Government Records: An Introduction to Their Management, Preservation and Use* (Nashville: American Association for State and Local History, 1980).

Section 23 would then read:

23 Council and each community committee shall,

(a) develop and implement techniques to maintain the closest possible communication between the city and the residents of the city, and shall carry out and ensure that those residents are given full opportunity to represent their views on policies, programmes, budgets and delivery of services;

(b) develop and implement techniques to provide the residents of the community with information concerning existing and potential city policies, programs and budgets so as to facilitate residents in discussing and developing views concerning these matters; and

(c) develop and implement techniques to make the fullest and best use of resident advice for the community, in providing advice and assistance to the community committee in the committee's considerations of the Winnipeg City Plan, and any Special Area or Local Plans, zoning changes or proposed plans of subdivision or any amendment, alteration, repeal or replacement or any one or more of them.

A conscious and explicit strategy for resident involvement, developed by, and subject to revision by, City Council, is what is most needed. That strategy is more likely to be developed if the statutory obligations are retained and extended to City Council itself.

It is admirable that the municipal government perceives itself as the level of government closest to the people and most responsive to their needs. This self-image provides Council with significant opportunities to increase the satisfaction of residents, to reduce individual and group alienation, to channel significant expressions of the community will, and to reinforce the democratic tradition of equal influence on government. We urge both the Provincial Government and the City Council to support an active strategy to promote citizen involvement.

The Committee is confined by its terms of reference to recommendations affecting City operations. We can only point out the need for the Province to be consistent in its commitment to resident involvement. If it requires the City to develop and implement techniques of involvement, it should assist the City to do so and improve its own techniques.

In our view resident involvement through appropriate structures is a prerequisite for the production and updating of the Winnipeg City Plan and local plans. It is also a critical element in the development of economic and social policy roles for the City.

Resident participation between elections is particularly important in those neighbourhoods where a dynamic process of change is occurring. Neighbourhood (or Community) Improvement Programs, Core Area Initiative programmes, and resident association activities in Winnipeg have repeatedly demonstrated that when people are involved in social and economic planning they become more committed to the goals and implementation of approved projects. The Review Committee believes that the conscious development and public discussion of a policy on resident involvement will clarify the City's position for residents and for City employees and will contribute to the efficient achievement of well defined goals.

Given the importance of resident involvement and the clear rationale for an obligation in the Act to facilitate and enhance this involvement, the Committee believes that Council as a whole, and not only the Community Committees, should be obliged to act by this statutory provision.

Part of the difficulty of seeing the City as a whole is that both the electoral and the resident participation structures force a concentration on ward and community issues. There is no focus or strategy for resident participation in the very large issues which affect all of us—issues on which Council needs input as much as, and perhaps more than, the Community Committees.

Participation along policy lines as distinct from participation on a geographical basis will often be more attractive and meaningful to many residents. When Council considers its future policies toward resident involvement it should consider procedures to involve residents on broad policy issues above the level of Community Committees. We believe that the Executive Committee should have definite statutory responsibility for ensuring both Council and Community Committee compliance with an amended section 23.

There is a real opportunity for creativity—an opportunity that should be welcomed by municipal politicians. The range of possibilities is wide—from changes in the manner of posting public notices to involving neighbourhoods in exploring and assessing their needs and resources. There is no question that in the short run resident participation will require expenditure of money; we believe that in the long run such expenditures are worth the money.

On some occasions, Community Committees have satisfied their obligations under the statute, on others only lip service has been paid; in all too many instances, unfortunately, their duty has been actively resisted. An effective enforcement mechanism is required and suggested elsewhere by the Committee (see Recommendation 46).

Mr. MacDonald dissents from this recommendation, believing that it should be entirely up to Council to foster or neglect any form of resident involvement that it chooses without legislative guidance or restraint.

He observes that resident participation has always been a feature of municipal government. It is not a rare flower which needs to be planted by statute and fertilized with public money and that citizen participation is at its best when it erupts spontaneously. Mr. MacDonald predicts that to fund groups of resident activists with public money would be to make them captives of the Community Committee providing the funds, losing their independence in the process. Further, he feels Councillors are in regular communication with their constituents, or so they say, and it is a rare meeting at City Hall when delegations are not present to present their views on civic issues and they do so without prompting.

Consequently, Mr. MacDonald would remove from the Act those sections dealing with the establishment of Residents' Advisory Groups immediately and allow the Council to devise its own system of involving its residents and responding to them.

9.2 RESIDENT INVOLVEMENT

Recommendation 52 Council to make decision by 1989 whether to retain or replace Residents' Advisory Groups

The Review Committee recommends that the Act require that Council either decide to continue Residents' Advisory Groups or to establish a new mechanism to facilitate resident involvement, by January 1989.

The Review Committee recommends that section 21 of the Act, which establishes Residents' Advisory Groups, lapse in January 1989. The Committee further recommends that if, before January 1989, Council decides to involve residents in a different

way pursuant to section 23 as amended, section 21 should be deleted from the Act.

Discussion:

We received a number of oral and written briefs on the role and performance of Residents' Advisory Groups (RAGs) and on the relationships between them and the Councillors they seek to advise. The Residents' Advisory Groups were created by the original **City of Winnipeg Act**. At the time they were considered highly innovative in their attempt to create a formal link between residents and elected representatives.

On the positive side, RAGs have educated residents about city matters, have provided some valuable help to many Councillors, have served as training grounds for future Councillors, and have served as entry points for residents to get involved in the City's political process.

Critics maintain that communication between a Councillor and residents is not improved by RAGs. Those few people who serve on RAGs do not have a mandate to represent anyone. Councillors, for their part, most often treat the RAGs with patient indifference, preferring to tune in on the political sentiments of their constituents through more conventional methods, mainly through their own knowledge of their wards and their direct contact with constituency groups. Indeed, those groups themselves—the myriad of homeowners or residents associations, ad hoc protest groups, social agencies, special interest organizations, community clubs, business and labour organizations, property owners and developers, and a host of others—generally tend to ignore the RAGs and go directly to Community Committee, individual Councillors, or Council itself, rather than channel their advisory or lobbying efforts through the RAGs.

In defence of Residents' Advisory Groups supporters argue that they haven't been given sufficient opportunities or resources to prove their value.

The Committee believes that it is impossible to say whether the original concept is valid or practical. Various studies have described the failure of both the Provincial Government and the then new City Government to emphasize or to promote methods of involving residents in the initial stages of Unicity government. Politicians and civil servants were understandably not inclined to alter their methods of decision-making for something untried, especially at a time of tremendous change when amalgamation of services was the key issue.

Subsequent decisions by the City of Winnipeg have hampered the development of Residents' Advisory Groups. We heard that the token annual grants (of \$100 or \$200) made by Community Committees to the RAGs are quickly spent in simple record keeping, that the services offered to RAGs by the Community offices are not standardized across the City, and that key documents—such as the Act itself—are simply not available to Resident Advisors.

Proponents of RAGs suggest that a larger and more definite role, realistic budgets, and other resources are what is needed to allow RAGs to function effectively and to live up to their potential.

Others maintain that to confer power and resources on the virtually self-appointed members of Residents' Advisory Groups would subvert the role of elected Councillors. To enhance the influence of the RAGs would establish yet another ineffectual and non-accountable element in the political system.

Thus the dilemma: resident participation in the form of RAGs has not been particularly successful, nor have the conditions necessary for success been present. Those conditions, not necessarily the RAG mechanism, ought to be created; but while the Act can help, only Council can actually make them work.

The Committee recognizes that resident involvement will not be emphasized by our system of civic politics unless it is viewed as desirable by those in power. We believe that resident involvement is desirable. We believe that resident involvement works to improve the policies adopted by Council by ensuring that relevant interests and opinions have an impact on the policy makers and on the policy making process. We also believe that policy developed through a process of resident involvement and wide consultation is better policy in the sense that it is more comprehensive and more acceptable.

We do not believe that the present requirements of the Act necessarily foster involvement. We observe that a statutorily imposed structure may in fact stifle energetic attempts to develop creative models and methods of involvement.

We think that other models of resident involvement should be examined and we urge Councillors to give thought to the examples provided by other Canadian cities. Ottawa and Edmonton particularly. We also think that there may be merit in developing a strategy for resident involvement which taps the energy and creativity of the many groups that form around specific issues and neighbourhood interests rather than giving special status to one continuing group of advisors. Perhaps Council would prefer to foster resident involvement through a variety of means.

We are not prepared, however, to recommend that RAGs be eliminated immediately on the basis of the evidence at hand.

Essentially, the Committee concludes that no specific prescription for formalizing the relationships between Councillors and their constituents should be enshrined in the Act.

The Committee does not believe that a structure imposed by the Province can create the conditions for resident involvement on the City level.

We believe that Council itself should be required to decide whether to retain a formal participation structure such as Residents' Advisory Groups. We believe, further, that the decision should be taken within three years. During this period, RAGs should have the opportunity to perform a recognizably useful role (see Recommendation 53), and Councillors should know that a decision on RAGs and on resident involvement mechanisms in general must be made.

Mr. MacDonald dissents from this recommendation for the same reasons as earlier (see Recommendation 51). While acknowledging the value and importance of resident involvement Mr. MacDonald does not believe that maintaining the RAGs by statute, even for a limited period, accomplishes anything of value and would strike all references to resident involvement from the Act.

9.2 RESIDENT INVOLVEMENT

Recommendation 53 *Interim Continuation and Support of Residents' Advisory Groups*

The Review Committee recommends that until Council establishes and codifies its own means of institutionalizing resident involvement, the Residents' Advisory Groups should be continued and that their governing references in the Act should be retained. Until such time as Council by resolution replaces them, Residents' Advisory Groups should be afforded improved resources and support by Council.

To allow for improved resources and support by Council the Committee recommends the following new provisions in the Act:

Fees: The residents present at a community conference may establish a nominal fee to establish entitlement to vote at meetings of the Residents' Advisory Group; no member may be restricted from attending a meeting of the Residents' Advisory Group. [new subsection 21(5)]

Additional Funds: Community Committee may add to the fees raised by a Residents' Advisory Group by appropriating funds and paying them out to the Group on a quarterly basis. [new subsection 21(6)]

In addition, the Committee recommends the following new provision in the Act:

Community Committee Resolution: Prior to the election of members of the Residents' Advisory Group at the community conference, the Councillors of the Community Committee will meet and determine by resolution the manner and methods by which, in the ensuing period until the next community conference, they will receive advice and assistance from the Residents' Advisory Group. [subsection 21(7)]

Discussion

To give the RAGs a final chance to prove their value and to establish clearly the commitment, or lack thereof, of the Community Committees to receive their advice and assistance, the Review Committee in Recommendation 54 suggests to Council certain support of RAGs. Without these new provisions set out above, Council could not implement our suggestions.

At our hearings, and through correspondence, the Committee heard from all the RAGs in the City. Their reports as to how they are treated by their Councillors varied widely, from excellent rapport and mutual respect to avoidance and disdain. Even within a single Community Committee, treatment was often inconsistent over time. It is essential that the rules and procedures in this relationship be established from the outset and consistently upheld throughout the year. As the Community Committee is obliged to make this determination prior to the community conference, RAG leaders will know from the outset how their roles will be played.

Mr. MacDonald dissents from this recommendation for the reasons given under Recommendation 51.

9.2 RESIDENT INVOLVEMENT

Recommendation 54 *Advancing Resident Involvement*

The Review Committee recommends that the City and the Province consider some further suggestions concerning the involvement of residents between elections. The eventual mechanism for promoting resident involvement will be chosen by Council (see Recommendation 52); our suggestions are applicable to virtually any choice, and should be applied to Residents' Advisory Groups in the interim period.

We think that, at a minimum, groups of residents as Council or Community Committees may select should be given the following support by Council:

- members of these groups should always be entitled to receive an adequate number of photocopies of the agenda of meetings of the

Community Committee and of Council and copies of any relevant City reports at the same time as the local Councillors get them;

- any group with over 50 people entitled to vote by the payment of a fee should be entitled to a minimum of \$1,000 in municipal resources; in addition the Community Committee should continue on a quarterly basis to match the nominal membership fee levied by the group;
- to safeguard the use of public funds, expenditures should be countersigned by a person designated by the Community Committee;
- the groups should have the right to use the community offices for meetings and some designated resources from the community offices, including secretarial help; and
- the Council should provide facilities and resources for an annual conference of resident groups.

We urge the Provincial Government to recognize that it has a duty to assess its creation and to find innovative means to assist the City in identifying and supporting new forms of resident involvement.

Discussion

We have recommended that responsibility for defining, shaping and advancing resident involvement be transferred to Council and away from the Legislature; that an interim three-year period be earmarked as a time for testing and exploring new means of involving residents; and that both Council and Community Committees must further state, on an annual basis, their immediate intention on this subject.

During the interim period we feel that some minimum steps must be taken to advance resident involvement within the context of the RAG; and that while every Community Committee might well decide to go far beyond these minimum steps (and some already do), it is essential that RAGs throughout the City enjoy some basic level of access to the processes of City government and that some basic resources be provided to every RAG.

In this proposal the financial resources available depend first on the initiative of the RAG itself. Once that is demonstrated, the Community Committee may provide additional funds, perhaps on a matching basis of three to five municipal dollars for each resident dollar. The incentive for the active and committed RAG is clear. The pressure on the Community Committee to respond in kind is also clear.

The Committee suggests a nominal membership fee be \$1.00 because of our view that poorer RAG areas should not be placed in a disadvantaged financial position relative to wealthier areas. We did not want a threshold that could restrict membership.

The system suggested above could result in a modest yet useful pool of resources for a RAG. With 500 fee-paying members, and with the Committee providing funds on a five-to-one matching basis, a RAG with a one dollar membership could obtain a \$3000 annual budget.

We believe that the Provincial Government has a role to play in this area. Through the original Unicity legislation the Legislature created unique forms of resident involvement and then abandoned the experiment. Successive governments have declined to amend the Act, either to end the experiment or to advance the concept.

Mr. MacDonald dissents from this recommendation as well, for the reasons enumerated under Recommendation 51.

9.3 FRENCH LANGUAGE SERVICES

Recommendation 55 Definition of "Communication" and Provision of Emergency Telephone Services in Both Official Languages

The Review Committee recommends that all of Part III be rewritten to clarify its intent and to define precisely what is required of the City under the current legislation. We propose that the three levels of service the City is required to provide in French be specified and that definitions of "communication," "the city's central offices" and other important terms be included.

The Committee further recommends that the Act specifically require the City to provide emergency telephone service in life-threatening and personal danger situations in both official languages.

The Committee further recommends that the Act be amended to redefine the area to receive the first level of services in both official languages by deleting reference to the 1971 wards and substituting the proposed Old St. Boniface/Norwood ward (see Recommendation 16).

Discussion:

Elsewhere in this Report we comment on the failure of the City government to meet its obligations under various sections of the Act and the failure of successive Provincial Governments to enforce the Act. When we heard briefs on Part III of the Act, "Official Languages of Canada," we were struck by the apparent indifference of both levels of government to this Part, and by the central importance it is accorded by Francophone residents.

Part III is the shortest Part of the Act, consisting of only four sections, but those four sections appear to be confused in order and content. The Act seems to require three levels of service in both English and French at certain locations. In practice this means that the City must communicate in French with people who want to communicate with the City in French, but only in certain ways and at certain places.

The first level of service in French is written communication in "the City's central offices" and to residents of "the St. Boniface community." This is provided for in three sections of the Act:

Information signs.

79 (2) Major information signs in the city's central offices shall be in both the English and French languages.

Certain documents in St. Boniface community to be in English and in French

80 (3) All notices, bills or statements sent or demands made to any of the residents of that part of the St. Boniface-St. Vital community described under the ward names Winakwa, Norwood, Tache and Langevin in Order in Council 656/71 in connection with the delivery of any service, or the payment of a tax, shall be written in English and in French.

Street and traffic signs in St. Boniface community.

80 (4) All city street and traffic signs in that part of the St. Boniface-St. Vital community described under the ward names Winakwa, Norwood, Tache and Langevin in Order in Council 656/71 shall be in English and in French.

There is nothing in the Act to define "major information signs" or "the city's central offices". As late as October

1985 notices concerning the payment of taxes in English only were included with water utility bills distributed to the whole city, including areas described in section 80(3).

The wards described in the 1971 Order in Council disappeared in 1977. Maps of the 1977 wards and the 1971 wards are included in this Report (see Maps I and V).

The second level of service in French seems to require that someone who can actually speak French be available at the City's "central offices":

Communication in official languages at city's central offices.

79 (1) Persons who are able to communicate in the two official languages of Canada, English and French, shall be available at the city's central offices so that residents and visitors may communicate with city employees or may be received in the English or French languages.

Apparently the operations centre for the City's 911 emergency telephone service is not at the city's "central offices". We are advised that it is very difficult "to communicate" with an emergency operator in French.

Most of the rest of Part III prescribes the third and highest level of service, being the provision of and communication about municipal services at "the St. Boniface Community Office", other "community offices," and "offices in Historic St. Boniface." Four sections of the Act are relevant here:

78.1 In this Part "Historic St. Boniface" means that part of the St. Vital-St. Boniface Community described as Tache Ward in Order in Council 656/71.

Communication in French or English in St. Boniface Community Office.

80 (1) In order that residents of the St. Boniface St. Vital Community may communicate in either of the two official languages of Canada, English or French, with city employees concerning the work of any department or the delivery of any service, there shall be available during any ordinary business hours at the St. Boniface St. Vital community committee office referred to in subsection 26(2), employees able to communicate in either English or French.

French and English in other community offices.

80 (2) If any service referred to in subsection (1) is not available in the St. Boniface St. Vital community but is being provided to residents of the St. Boniface St. Vital community from any other community area, the requirement for availability of the French language shall apply to the other community facility as set out in section 79.

Offices in Historic St. Boniface.

80 (5) In the event the Community Committee office in Historic St. Boniface is moved out of Historic St. Boniface or is disestablished the Council shall continue an office located in Historic St. Boniface, staffed by employees fluent in French and English

- (a) to handle inquiries made in either the French or the English language respecting assessment, by-laws, licences, regulations and other services;
- (b) to accept the payment on account of business taxes, licence fees, property taxes, water and waste billings, and similar payments due to the City;
- (c) to translate into French public notices that under this section are required to be issued bilingually in the St. Boniface-St. Vital Community;
- (d) to translate into English any correspondence that is received in French;

(e) to conduct any other business that the City Clerk and the City Treasurer may assign to them; and

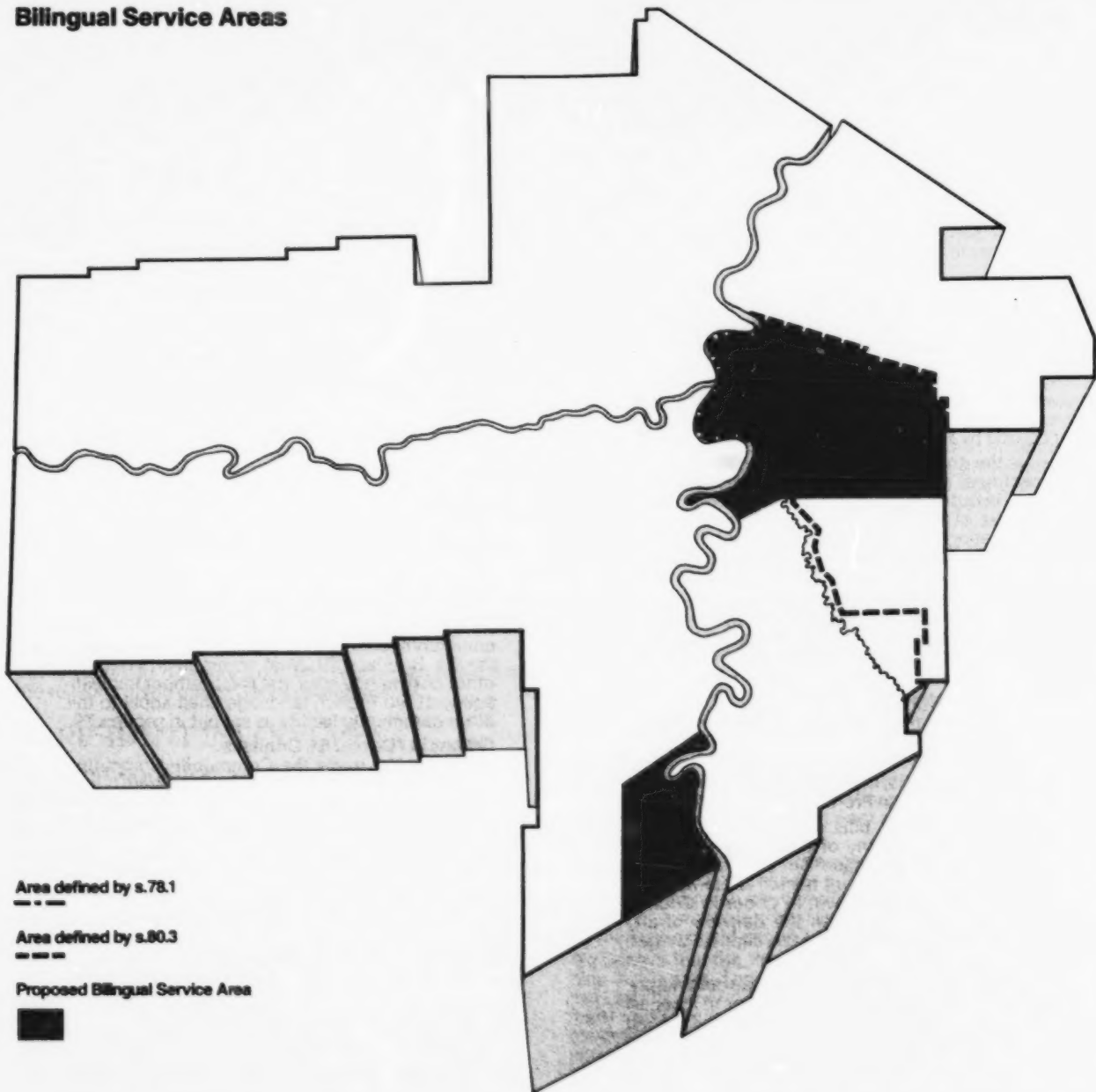
(f) to provide other services which the Council considers advisable.

These sections raise the question of boundaries and locations once again, as well as the definitional difference between being able "to communicate" and being "fluent" in French.

Francophones who wish to conduct their business with the City in their own language told the Review Committee in our hearings that they did not expect perfection but that above all they wanted two things: clarity in the Act and some concrete evidence that the City is attempting to uphold both the letter and the spirit of the Act. The point was also made, particularly in the brief from the Société Franco-Manitobaine, that in some respects the promise of Part III is being upheld. For example the SFM acknowl-

MAP V

Bilingual Service Areas



edges that most of the City departments operating at the old St. Boniface City Hall on Provencher Boulevard are staffed by people who are bilingual. But the SFM also pointed out that at the police station next door, it is usually impossible to communicate with anyone in French.

The problem of clarity in the Act is evident to anyone who has read the sections of Part III reproduced here, and very little more need be said. It is imperative that such elusive concepts as "to communicate" and "the city's central offices" be carefully defined to reveal fully the obligations that the Legislature intends to impose on the City Government.

On the question of services actually available in French, the Review Committee heard several representations that services as trivial as learn-to-swim classes are not routinely available in both languages in St. Boniface-St. Vital community and, as noted above, services as important as emergency telephone operations in French are likewise unavailable. The Mayor has responded to these and other similar statements with the explanation that the City cannot hire enough Francophones to meet its obligations and that administrative complexities, such as the effect on shift timetables, have defeated the best efforts of the entire City Government.

The Review Committee believes that these difficulties can be quickly overcome in Winnipeg, just as they have been overcome in other jurisdictions.

It is also regrettable that the spirit of Part III is so neglected that bilingual operators are not available on the City's emergency telephone service, dealing with life-threatening and personal danger situations. The Committee's recommendation, therefore, calls for a new statutory obligation to provide emergency telephone services in both official languages. This is a straightforward requirement, well in keeping with the spirit of Part III. We regret that the Act has been so little honoured that such a recommendation is necessary.

9.3 FRENCH LANGUAGE SERVICES

Recommendation 56 *Recognition of the Bilingual Character of Historic St. Norbert*

The Review Committee recommends that the bilingual character of a portion of the district of St. Norbert be recognized in the Act by including an area to be designated "Historic St. Norbert" in the portion of the City entitled to receive official documents in both official languages, and entitled to street and traffic signs in both languages.

Discussion

The district of St. Norbert, north and east of the City's boundaries, west of the Red River, and south of the Perimeter Highway, has had a significant Francophone population, at least since 1822. The character of the district is recognized by the inclusion of St. Norbert in the Seine River School Division which is otherwise centred on the Rural Municipality of Taché, across the Red River.

The Review Committee proposes that the Francophone character of a portion of the district of St. Norbert, to be designated as "Historic St. Norbert," be recognized, by inclusion in Part III of the Act, as being guaranteed the first level of service in both official languages. This means that "Historic St. Norbert" will be provided with official city documents and street and traffic signs, as is the "St. Boniface Community" (see Recommendation 55).

9.3 FRENCH LANGUAGE SERVICES

Recommendation 57 *Enforcing the City's Statutory Obligations under Part III*

The Review Committee recommends that Part III of the Act should be strictly enforced through the Committee's proposed mechanisms of the City of Winnipeg Ombudsman and the Municipal Tribunal (see Recommendations 59 and 61).

Discussion

The demand by members of the public to be heard on the administration of Part III of the Act (relating to the rights of the Francophone community) was so great that we extended our schedule and conducted three hearings in St. Boniface-St. Vital Community, including two in "Historic St. Boniface."

At all three hearings in St. Boniface-St. Vital we provided simultaneous translation so that Francophones would be able to address us in their own language.

We also heard briefs in French at City Hall. Again we provided simultaneous translation. We were told that this was the first time that a hearing relating to City business had been conducted in both official languages at City Hall.

We did not find arranging to hear briefs in both official languages difficult nor was the expense unreasonable.

The Committee understands that the pre-Unicity City of St. Boniface provided all its services in both official languages as a matter of course. The City of St. Boniface arranged its affairs so that Anglophone and Francophone residents, equally, could communicate with their municipal government in the language of their choice. This arrangement was portrayed to us as a common sense recognition of the bilingual and bicultural character of the old municipality.

We were told that this arrangement was codified in a by-law only when the formation of Unicity was imminent. We were told that the by-law was a hedge against the future, an attempt to guarantee that Francophone and Anglophone residents would continue to be treated equally in the new, larger City. The by-law was an attempt to ensure that the Francophone minority would have some legal protection in the territory of the old City of St. Boniface.

Briefs received by the Review Committee indicated that Part III seemed to meet these concerns when Unicity was created in 1971. The record of the last fourteen years has been discouraging and, statutory prominence notwithstanding, the City government has evaded its responsibilities.

We do not believe that there has been any conscious attempt to deny Francophones the services that the Act requires. Rather, there have been few attempts to meet the obligations imposed by the Act. Without a plan to ensure that the Act's requirements are met, and a management and reporting structure in place to inform Council of progress toward stated goals, the City's achievements under Part III will be as negligible as they would be under any other Part of the Act if those three essential elements—a plan, a management system, and a reporting structure—were missing.

Provincial authorities have not done all that they could to ensure that the will of the Legislature on this point is upheld. Where successive Attorneys-General might well have applied to the courts for writs or injunctions to compel the City government to enter into the spirit and letter of Part III of the Act, they have not done so. We think that future Attorneys-General are unlikely to intervene in this way either, unless very substantial political pressures arise to compel an Attorney-General to act.

The burden of seeking enforcement of the Act falls on the shoulders of the individual resident, no matter how clear the intent of the Legislature in the Act. We believe that the Act should offer alternatives to lengthy and expensive court processes and that these alternatives will produce a less contentious, and more tolerant, institutional approach to minority language use in the City of Winnipeg.

The Committee places the burden of proof on the City on the first instance. We recommend that Executive Committee be required to report annually to Council and the people of Winnipeg as to the City's performance in living up to all its statutory obligations, including Part III (see Recommendation 46).

Various briefs to the Review Committee proposed the creation of a civic Language Commissioner, on the Federal model, who would be a statutory officer of the City charged with overseeing the implementation of Part III. The proposed Language Commissioner would have the powers of publicity and persuasion and direct access to Council.

The Review Committee recommends that such powers and functions be assigned to the proposed City Ombudsman (see Recommendation 59). We do not think that there is any advantage to be gained by separating administrative action or inaction under Part III from action or inaction under other Parts of the Act particularly if mediation and conciliation are sought. We think there is a distinct advantage to the applicant if administrative mistreatment under Part III is addressed by the routine procedures to be established by the Ombudsman rather than if complaints about mistreatment under Part III are singled out under a special process.

A majority of the Review Committee support the establishment of a Municipal Tribunal (see Recommendation 61), which would have authority to make a determination of the rights available under the Act and, to a limited extent, to order remedies. Since decisions of the Tribunal could have the same effect as orders of the Court of Queen's Bench, this approach offers a more forceful remedy than the Ombudsman's powers of publicity and persuasion. In some cases we expect that the more forceful remedy may be required and prove to be more useful.

Neither recourse to the Ombudsman nor to the Tribunal would limit anyone's right to go to Court to seek redress of grievances or enforcement of the Act. Our proposed approaches to enforcement offer attractive alternatives in that they are less costly and probably more expeditious.

9.3 SERVICES EN LANGUE FRANÇAISE

Recommandation 55 Définition de "Communication" et prestation de services téléphoniques d'urgence dans les deux langues officielles

Le Comité de révision recommande de récrire en entier la partie III afin d'en clarifier l'intention et de préciser les services que la ville est tenue de fournir en vertu de la législation actuelle. Le Comité propose que l'on précise les trois niveaux de services que la ville est obligée de fournir et que l'on définisse les termes "communication", "bureaux d'administration centrale de la ville" et tous les autres termes d'importance.

Le Comité recommande de plus que l'on modifie la loi afin de redéfinir les quartiers qui doivent recevoir les services de premier niveau dans les deux langues officielles, en éliminant toutes les allusions aux quartiers de 1971 et en les remplaçant par le quartier

du Vieux Saint-Boniface—Norwood proposé. (voir Recommandation 16)

Le Comité recommande de plus que la loi oblige expressément la ville à fournir des services téléphoniques d'urgence, dans les deux langues officielles, dans des situations mettant en danger la vie des gens ou constituant des dangers personnels.

Argumentation:

Ailleurs dans ce rapport, le Comité fait des observations sur le fait que l'administration municipale a omis de remplir ses obligations en vertu de divers articles de la loi et que les gouvernements provinciaux successifs ont omis de faire appliquer la loi. Lorsque le Comité a entendu les mémoires portant sur la partie III de la loi, c'est-à-dire sur les deux langues officielles du Canada, il a été frappé par l'indifférence manifeste des deux administrations publiques à l'égard de cette partie et par l'importance primordiale que lui accordent les francophones.

La partie III est la plus courte de la loi. Elle ne comporte que quatre articles. Mais ces quatre articles, selon toute apparence, manquent de clarté. La loi impose apparemment trois niveaux de services en langues anglaise et française à certains endroits. Dans les faits, cela signifie que la ville doit communiquer en français avec les gens qui désirent communiquer en français avec elle, mais seulement de certaines façons et à certains endroits.

Les communications écrites dans "les bureaux d'administration centrale de la ville" et avec les résidents de l'arrondissement de "Saint-Boniface" constituent le premier niveau de services en langue française. D'ailleurs, trois articles de la loi prévoient ces services:

Panneaux indicateurs.

79 (2) Les panneaux indicateurs les plus importants dans les bureaux d'administration centrale de la ville doivent être à la fois en français et en anglais.

Documents en anglais et en français dans l'arrondissement de Saint-Boniface

80 (3) Sont rédigés en français et en anglais tous les avis, factures ou relevés envoyés ou toutes les demandes faites aux résidents de la partie de l'arrondissement de Saint-Boniface—Saint-Vital comprenant les quartiers Winakwa, Norwood, Taché et Langevin décrits dans le décret n656/71 ayant trait à la prestation des services ou au paiement d'un impôt.

Panneaux de circulation dans l'arrondissement de Saint-Boniface

80 (4) Sont en français et en anglais les plaques indicatrices de rues et les panneaux de circulation routière dans la partie de l'arrondissement de Saint-Boniface—Saint-Vital comprenant les quartiers Winakwa, Norwood, Taché et Langevin décrits dans le décret n656/71.

Il n'existe, dans la loi, aucune définition de "panneaux indicateurs les plus importants" ou de "bureaux d'administration centrale de la ville". En octobre 1985 encore, les avis de paiement des taxes étaient envoyés en anglais seulement, en même temps que les factures du service d'eau, partout dans la ville, y compris dans les quartiers mentionnés au paragraphe 80(3).

Les quartiers mentionnés dans le décret de 1971 ont disparu en 1977. Vous trouverez en annexe un plan des quartiers de 1977 et en plus des quartiers de 1971 (voir plans I et VI).

Il semble qu'on entende par deuxième niveau de services en langue française le fait que quelqu'un puisse s'exprimer en français dans les "bureaux d'administration centrale de la ville".

Langues officielles dans les bureaux d'administration centrale de la ville

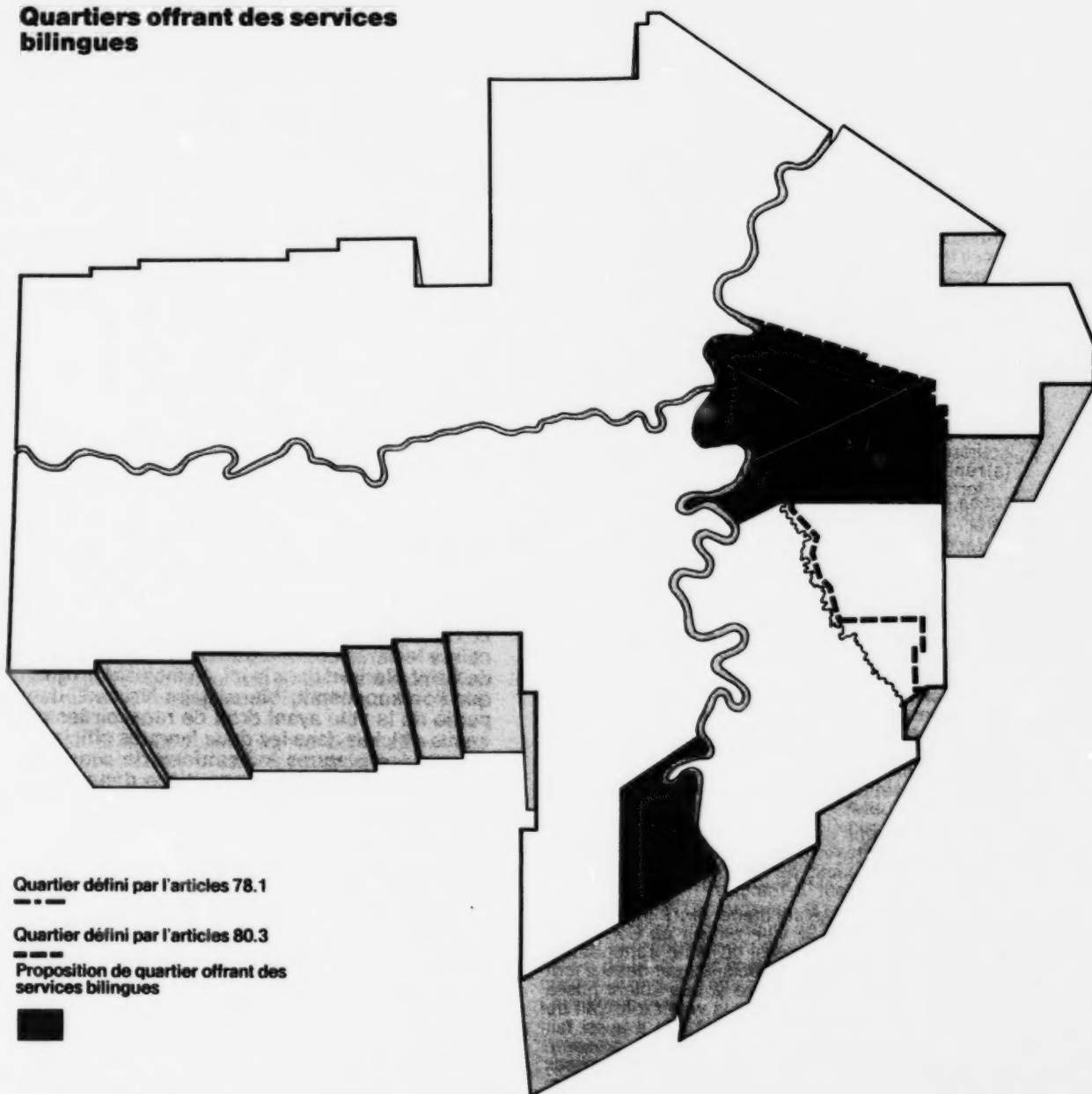
79 (1) Aux bureaux d'administration centrale de la ville, des personnes capables de communiquer dans les deux langues officielles du Canada, le français et l'anglais, sont à la disposition des résidents et visiteurs pour leur permettre de communiquer avec les employés de la ville ou d'être reçus en anglais ou en français.

Apparemment, le centre opérationnel du service téléphonique d'urgence (911) de la ville n'est pas situé dans les "bureaux d'administration centrale" de la ville. Le Comité s'est laissé dire qu'il était très difficile de "communiquer" en français avec une téléphoniste du service d'urgence.

Le reste de la partie III porte surtout sur le troisième niveau de services, qui est aussi le plus élevé, c'est-à-dire la prestation de services municipaux et la communi-

PLAN no VI

Quartiers offrant des services bilingues



cation dans le "bureau de l'arrondissement de Saint-Boniface", dans les "bureaux des autres arrondissements" et dans "les bureaux du Vieux Saint-Boniface". Quatre articles de la loi se rapportent à ce sujet:

78 (1) Dans la présente partie, "le Vieux Saint-Boniface" désigne la partie de l'arrondissement de Saint-Vital—Saint-Boniface appelée le quartier Taché dans le décret n656/71.

Communication en français ou en anglais dans le bureau de l'arrondissement de Saint-Boniface.

80 (1) Au bureau de l'arrondissement de Saint-Boniface—Saint-Vital visé par le paragraphe 26 (2), durant les heures normales de bureau, des employés capables de communiquer en anglais ou en français sont à la disposition des résidents de l'arrondissement de Saint-Boniface—Saint-Vital pour leur permettre de communiquer dans l'une des deux langues officielles du Canada, le français ou l'anglais, avec les employés de la ville relativement au fonctionnement des services ou à la prestation des services.

Le français et l'anglais dans les bureaux des autres arrondissements.

80 (2) Si un service visé au paragraphe (1) n'est pas offert dans l'arrondissement de Saint-Boniface—Saint-Vital, mais est fourni aux résidents de cet arrondissement à partir d'un autre arrondissement, l'obligation de fournir des services en français s'applique à cet autre arrondissement, tel que l'énonce l'article 79.

Bureaux dans le Vieux Saint-Boniface.

80 (5) Si le bureau du comité de l'arrondissement du Vieux Saint-Boniface était déménagé du Vieux Saint-Boniface ou était supprimé, le conseil municipal devait maintenir un bureau situé dans le Vieux Saint-Boniface, dont le personnel serait composé d'employés parlant couramment le français et l'anglais pour:

- (a) répondre aux demandes de renseignements formulées soit en français, soit en anglais, relativement aux évaluations, décrets, licences, règlements et autres services;
- (b) recevoir paiement des taxes d'affaires, des droits de licence, des impôts fonciers, des taxes d'eau et d'enlèvement des ordures ménagères, et d'autres paiements du même genre exigibles par la ville;
- (c) traduire en français des avis publics qui, en vertu du présent article, doivent être publiés dans les deux langues officielles dans l'arrondissement de Saint-Boniface—Saint-Vital;
- (d) traduire en anglais la correspondance reçue en français;
- (e) expédier d'autres affaires que le greffier et le trésorier de la ville peuvent leur attribuer; et
- (f) fournir d'autres services que le conseil municipal juge utiles.

Ces articles soulèvent, une fois de plus, la question des frontières et des limites ainsi que de la différence définitionnelle entre être capable "de communiquer" en français et "de parler couramment" le français.

Les francophones qui désirent mener leurs affaires dans leur propre langue avec la ville ont dit au Comité de révision, pendant les audiences, qu'ils ne s'attendaient pas à la perfection, mais qu'ils voulaient par-dessus tout deux choses: que la loi soit claire et que soient posés des gestes concrets prouvant que la ville s'efforçait de respecter la lettre et l'esprit de la loi. On a aussi fait remarquer, particulièrement dans le mémoire présenté par la Société franco-manitobaine, que les promesses de la partie III étaient, à certains égards, respectées. Par exemple, la SFM reconnaît que la plupart des services

de la ville situés dans le vieil hôtel de ville de Saint-Boniface, boulevard Provencher, sont dotés de personnel bilingue. Par ailleurs, la SFM a aussi fait remarquer qu'il était habituellement impossible de communiquer en français avec qui que ce soit au poste de police, situé juste à côté.

Quiconque a lu les articles, reproduits dans ce rapport, de la partie III, se rend vite compte du manque de clarté de la loi. Il est donc inutile d'en dire plus à ce sujet. Il est impératif que des concepts aussi vagues que "communication" définis pour indiquer sans ambages les obligations que l'Assemblée législative entend imposer à l'administration municipale.

Pour ce qui est des services offerts actuellement en français, le Comité de révision a entendu plusieurs observations à l'effet que des services aussi peu importants que les cours de natation n'étaient pas offerts systématiquement dans les deux langues dans l'arrondissement de Saint-Boniface—Saint-Vital et que des services aussi importants que les services téléphoniques d'urgence d'étaient pas offerts en français. Le Maire a réagi à ces affirmations en disant que la Ville ne pouvait pas embaucher suffisamment de francophones pour remplir ses obligations et que les problèmes administratifs, comme les effets sur le travail par équipes, ont eu raison de tous les efforts de l'administration municipale.

Le Comité de révision estime qu'il est possible de venir rapidement à bout de ces difficultés à Winnipeg, tout comme on l'a fait dans d'autres administrations.

Il est également regrettable que l'on bafoue l'esprit de la partie III au point de ne pas trouver de téléphonistes bilingues dans les services téléphoniques d'urgence de la ville, pour les situations mettant en danger la vie des gens ou constituant des dangers personnels. Par conséquent, le Comité recommande que l'on rende obligatoire la prestation des services téléphoniques d'urgence dans les deux langues officielles. Il s'agit là d'une prescription simple qui respecte l'esprit de la partie III. Il est malheureux qu'on ait fait fi de la loi au point qu'il faille maintenant faire cette recommandation.

9.3 SERVICES EN LANGUE FRANÇAISE

Recommandation 56 Reconnaissance du caractère bilingue du "Vieux Saint-Norbert"

Le Comité de révision recommande que l'on reconnaisse le caractère bilingue d'une partie du district de Saint-Norbert dans la loi, en incluant un quartier que l'on appellerait "Vieux Saint-Norbert" dans la partie de la ville ayant droit de recevoir les documents officiels dans les deux langues officielles et d'avoir des plaques indicatrices de rues et des panneaux de circulation routière dans les deux langues.

Argumentation:

Le district de Saint-Norbert, situé au nord et à l'est des limites de la ville, à l'ouest de la rivière Rouge et au sud de la route périphérique, a toujours compté un nombre important de francophones, du moins depuis 1822. Le district se caractérise par l'inclusion de Saint-Norbert dans la Division scolaire rivière Seine. Autrement, la Division fait partie de la municipalité rurale de Taché, de l'autre côté de la rivière Rouge.

Le Comité de révision propose que l'on reconnaisse le caractère francophone du district de Saint-Norbert en désignant une partie comme le "Vieux Saint-Norbert" et en garantissant dans la partie III de la loi la prestation des services de premier niveau dans les deux langues offi-

cielles. Dans les faits, cela signifie que le "Vieux Saint-Norbert" recevra les documents officiels de la ville et sera doté de plaques indicatrices de rues et de panneaux de circulation routière en français, comme c'est le cas pour Saint-Boniface (voir Recommandation 55).

9.3 SERVICES EN LANGUE FRANÇAISE

Recommandation 57 Exécution des obligations statutaires de la ville en vertu de la partie III

Le Comité de révision recommande que la partie III de la loi soit mise en application strictement par les éventuels Ombudsman de la ville de Winnipeg et le Tribunal municipal (voir Recommandations 59 et 61).

Argumentation:

Le nombre de personnes désirant se faire entendre sur la question de l'administration de la partie III de la loi (portant sur les droits des francophones) était si grand que le Comité a dû tenir trois audiences de plus à Saint-Boniface— Saint-Vital, dont deux dans le "Vieux Saint-Boniface".

Pour les trois audiences tenues à Saint-Boniface— Saint-Vital, le Comité a fourni des services de traduction simultanée afin de permettre aux francophones de s'adresser au Comité dans leur propre langue.

Le Comité a également entendu des mémoires présentés en français à l'hôtel de ville. Là encore, le Comité a fourni des services de traduction. Selon ce que l'on a affirmé au Comité, c'était la première fois qu'une audience se rapportant à la ville se déroulait dans les deux langues officielles à l'hôtel de ville.

Le Comité n'a pas trouvé difficile de prendre des dispositions pour tenir les audiences dans les deux langues officielles ni n'a trouvé le coût exagéré.

Le Comité croit savoir que la ville de Saint-Boniface offrait naturellement tous ses services dans les deux langues officielles avant la fusion. La ville de Saint-Boniface avait pris des dispositions pour que ses citoyens, de langue anglaise comme de langue française, puissent communiquer avec leur administration municipale dans la langue de leur choix. Ces dispositions ont été dépeintes comme la chose la plus naturelle du monde pour reconnaître le caractère bilingue et biculturel de l'ancienne ville.

Selon ce que l'on a affirmé, ce n'est que lorsque la fusion est devenue imminente que ces dispositions ont fait l'objet d'un décret.

Ce décret devait être une garantie pour l'avenir, une tentative pour s'assurer que les anglophones et les francophones soient traités également par la future administration municipale. Ce décret cherchait à garantir une certaine protection juridique à la minorité francophone dans le "Vieux Saint-Boniface".

Les mémoires présentés au Comité de révision indiquaient que la partie III semblait tenir compte de ces questions lors de la création de l'Unité en 1971. Dans les faits, il n'en a pas été ainsi au cours des quatorze dernières années et, en dépit des prescriptions de la loi, l'administration municipale s'est soustraite à ses responsabilités.

Le Comité ne croit pas que la ville ait essayé consciemment de frustrer les francophones des services que prescrit la loi. Elle a plutôt fait peu d'effort pour répondre aux obligations imposées par la loi. Sans un plan pour garantir

que les prescriptions de la loi sont respectées et sans une direction et une structure établie pour informer le Conseil des progrès réalisés dans ce sens, les réalisations de la ville en vertu de la partie III resteront aussi négligeables qu'elles le seraient en vertu d'une autre partie de la loi, en l'absence de ces trois éléments fondamentaux: un plan, un système de gestion et une structure administrative.

La Province n'a pas fait tout ce qu'elle pouvait pour faire respecter la volonté de l'Assemblée législative à ce sujet. Les procureurs généraux qui se sont succédés auraient pu demander des ordonnances ou des injonctions pour obliger la ville à respecter l'esprit et la lettre de la partie III de la loi, mais ils n'en ont rien fait. Il est fort improbable également que les prochains procureurs généraux interviennent, à moins que de fortes pressions politiques ne les y obligent.

Ainsi, le fardeau de faire appliquer la loi retombe sur les épaules du particulier, peu importe la netteté de l'intention de l'Assemblée législative dans la loi. Le Comité croit que la loi devrait offrir d'autres solutions que les recours aux tribunaux, qui sont longs et coûteux. Ces solutions de rechange auraient l'avantage de créer un climat moins hostile et plus tolérant à l'égard de l'utilisation de la langue de la minorité dans la ville de Winnipeg.

Le Comité impose le fardeau de la preuve à la ville en première instance. Il recommande d'obliger le Comité exécutif à présenter un rapport annuel au Conseil et aux habitants de Winnipeg, sur la manière dont la ville s'acquitte de ses obligations statutaires, y compris de celles découlant de la partie III (voir Recommandation 46).

Il a été proposé dans divers mémoires de créer à la ville un poste de Commissaire aux langues, en s'inspirant du modèle fédéral. Ce Commissaire serait un magistrat de la ville chargé de veiller à l'application de la partie III. Le Commissaire jouirait de pouvoirs de publicité et de persuasion et aurait directement accès au Conseil.

Le Comité de révision recommande que ces pouvoirs soient attribués à l'Ombudsman de la ville, poste qu'il propose de créer (voir Recommandation 59).

Le Comité ne croit pas qu'il y ait des avantages à séparer l'action ou l'inaction administratives découlant de la partie III de l'action ou de l'inaction découlant d'autres parties de la loi, surtout si l'on a recouru à l'arbitrage ou à la médiation. Le Comité estime qu'il aurait nettement avantage pour les requérants à passer par le processus habituel, que mettrait en oeuvre l'Ombudsman, pour faire régler les problèmes découlant du mauvais traitement administratif de la partie III au lieu de créer un processus spécial.

La majorité des membres du Comité de révision appuie la création d'un tribunal municipal (voir Recommandation 61) à qui l'on accorderait le pouvoir de déterminer les droits que confère la loi et, jusqu'à un certain point, d'ordonner des mesures correctives. Comme les décisions de ce tribunal auraient le même effet que les ordonnances de la Cour du Banc de la Reine, cette solution offrirait un recours plus puissant que les pouvoirs de publicité et de persuasion de l'Ombudsman. Le Comité s'attend à ce qu'il faille recourir, dans certains cas, à cette solution énergique qui s'avérera plus utile.

Ni le recours à l'Ombudsman ni le recours au tribunal ne saurait empêcher quelqu'un de s'adresser à la Cour pour obtenir le redressement des torts qu'il a subis ou l'application de la loi. Les solutions proposées par le Comité offrent l'avantage d'être moins coûteuses et probablement plus expéditives.

9.4 REFERENDA

Recommendation 58 *Deletion of Provision for Referenda*

The Review Committee recommends that the provision allowing for referenda (section 112.1) be deleted from the Act to reinforce the principle that elected representatives should make decisions and be held accountable for the results.

Discussion

The Committee heard a wide range of opinion on the question of referenda at our hearings. Some witnesses asserted that it was impossible to preserve or respect minority rights in a referendum process. Others argued that only a limited number of issues could properly be submitted to the public and felt that the Act should prescribe those types of issues that could be presented to the electors in referenda, whether binding or non-binding. Still others saw binding "money by-laws" as invaluable checks on wrong-headed Councils.

From the outset we note that there is now no limitation on Councillors in securing the opinion of their electorate. Every elected representative must develop a variety of techniques for getting in touch, and staying in touch, with constituents. Those who fail in this essential task may be retired from office by their electorate. Referenda are much more complicated and indirect methods of sampling public opinion than the traditional methods of politicians and probably much less accurate than more scientific methods of opinion polling.

If referenda are to be useful at all, the Committee believes they must be limited to matters within the jurisdiction of the Council, binding on Council, presented as the culmination of an elaborate and expensive campaign of public information, and viewed as an appropriate technique for decision-making by all those concerned. We doubt that these conditions can ever be met.

A solicitation of public opinion—a plebiscite—on a matter outside Council's jurisdiction is a useless expense. On matters outside the municipal sphere the concerned public experiences no limits on the peaceful expression of opinion and can concentrate its efforts where being heard is likely to be influential. A referendum at an inappropriate level of government neither initiates nor changes anything, as our recent experience with the French language and nuclear freeze votes has shown.

It is important that any references to the public have a real effect on the decision of a deliberative body such as City Council. To allow the deliberative body to escape the bounds of a referendum outcome, which is the current state of the Act, is to make a sham of the process.

The Committee believes that the political leadership should make the decision if a particular decision is desired by the electorate. If the electoral effect of a particular decision is so uncertain that a straw vote through the referendum process seems attractive, then courage among the leadership—or new leadership—is required.

Those jurisdictions, such as California, that use a "proposition" form of referendum coinciding with their election days have found that there is a virtually unlimited need to inform the public of the issues if a fair test of public opinion is to be achieved. The referendum on sovereignty/association conducted by the Government of Quebec illustrates the difficulty very clearly.

Proponents and opponents of every side of an issue need a fair forum, adequate funding, and a sufficient organization to sustain a campaign of public information. It is almost certainly impossible to provide a satisfactory public

information campaign; the attempt to do so can moreover be wasteful, and give undue advantage to those with great financial resources.

We generally expect our elected representatives to make fair and informed decisions on our behalf. The referendum, by and large, is an unsatisfactory alternative to traditional Canadian practice.

The question of minority rights as subjects of referenda is familiar to Winnipeggers. The Review Committee does not believe that minority rights can properly be decided by referendum.

Throughout this Report we have stressed that the structure of Winnipeg city government will be strengthened if responsibility and accountability for decision making are clarified. We have observed that City Council is an organ of representative democracy, however close to the electorate its members may be, and not a simple agent of direct democracy. We regret that some of the briefs we received sounded the minor theme that elected municipal officials really can't be trusted to get much of anything right. This school of thought contends that referenda, "money by-laws" in particular, are necessary to restrain free-spending politicians with grandiose plans involving capital expenditures in particular.

We insist that a better remedy for this perceived possibility lies in clarifying the accountability and representativeness of elected officials and that referenda obscure the facts of who is making what decision. Referenda can divert the public from the necessity of political change. The more the public thinks that its particular vote on a particular issue can make a difference, the less it will be inclined to explore the possibility of making a political change through changing Councillors.

9.5 CITY OF WINNIPEG OMBUDSMAN

Recommendation 59 *Establishment of a City of Winnipeg Ombudsman*

The Review Committee recommends that the Act establish a statutory officer to be called The City of Winnipeg Ombudsman. The City Ombudsman should be responsible for:

- monitoring and reporting at least annually to Council and to the public on the City's fulfillment of its statutory obligations including:
 - Annual declaration on amendments to the Winnipeg City Plan (see Recommendation 25);
 - Adoption and operation of an access to information by-law (see Recommendation 47);
 - Involvement of residents pursuant to Section 23 as amended (see Recommendation 51);
 - Communication with residents in both official languages (see Recommendation 55);
 - at his or her discretion, any other matters which the Council is required by law to do.
- providing the first level of review in access to information matters through the operation of the City's Access to Information By-law (or procedures specifically laid out in the Act);
- consulting with politicians, civil servants and residents in developing methods of involving residents pursuant to section 23 as amended (see Recommendation 51);

—investigating, conciliating and/or mediating complaints from residents about the City's treatment of them and their access to, and provision of, municipal information and services; and to report at any time but at least annually to Council and to the public on the Ombudsman's activities in this regard.

The Ombudsman's independence from political pressures should be protected by requiring appointment by Council for five years. The Ombudsman may only be dismissed by two-thirds of Council present (with proper notice of motion) and only for cause. Council should provide the Ombudsman with a reasonable budget to fulfill the requirements of the position. There should be a recognized right for the Ombudsman to report to Council when she or he feels that budgetary restrictions will seriously impair her or his effectiveness in fulfilling the duties of the office.

The Ombudsman should have the right to refer complaints to the Municipal Tribunal and to appear before the Tribunal or before the courts.

Discussion:

The Review Committee believes that an independent City Ombudsman, supported by adequate staff and budgets, is important to help resolve conflicts between the City and its residents, to report to the public on the activities of the municipal government, and to help facilitate resident involvement. The Ombudsman would be a key actor in helping residents develop methods of providing input and in helping politicians and bureaucrats understand the value of receiving input.

The Ombudsman would investigate citizen complaints of maladministration by the City of Winnipeg. The Ombudsman would not be allowed to question political decisions of Council but could investigate procedural improprieties. The Ombudsman should have wide powers of investigation. His or her influence will depend ultimately upon persuasion and publicity but not upon the power to order remedies. (The reader will note that the term "Ombudsman" does not imply gender. The term is borrowed directly from the Swedish language and not translated.)

Our recommendation is not meant to disparage or to undermine the role that all Councillors play in intervening with the administration on behalf of constituents. This is a high priority for most Councillors, but redress should not depend solely upon the commitment and the skills of the elected representative.

Nor should our recommendation be seen as an implied criticism of the officials within the City's administrative branches. It is our impression that in the vast majority of cases, City officials are anxious to provide citizens with the services and benefits to which they are entitled. Civic employees must be given latitude and discretion in administering programmes; the availability of an appeal to the Ombudsman will help, however, to galvanize the norms of accuracy, integrity and fairness in decision-making and will provide for the simple and direct redress of grievances when mistakes occur.

The Committee believes that the current system of having Councillors deal with resident complaints has generally worked well. The Ombudsman will not discourage residents from going first to their elected representatives with their problems, nor will a City Ombudsman encour-

age Councillors to transfer problems and avoid constituency work. We believe that our recommendations concerning Councillor compensation, adequate staff, and resources will assist Councillors in doing constituency work and in lightening the heaviest load of some Councillors who represent wards with tremendous social and service problems (see Recommendation 13).

Indeed, if the role of the City Ombudsman were simply to take on resident complaints, the Committee would be more reluctant to establish the office. The Committee sees the Ombudsman as having a broader role.

The Ombudsman's additional roles—monitoring and reporting on the City's implementation of its statutory requirements, and consulting on the issue of implementing our suggested section 23, and hearing appeals of decisions to deny access to information—provide important additional mandates justifying the establishment of the office. The rationale for our recommendations for certain statutory requirements, and for access to information, are to be found elsewhere (see Recommendations 46 and 47).

The Committee was also asked by leading members of the Francophone community to recommend the appointment of a "Language Rights Commissioner". We envision the City Ombudsman as performing that function also (see Recommendation 57).

To have one person, independent of the politicians, charged with the responsibility of monitoring the City's fulfillment of its duties is to provide one major link in a new, improved chain of accountability. That person provides not only information but a potentially positive influence.

The City Ombudsman would have direct access to our suggested Municipal Tribunal (see Recommendation 61)—the final link in enforcing **The City of Winnipeg Act**. If such a Tribunal is not established, the Ombudsman should be able to apply to, and appear before, the courts on matters affecting the rights of residents.

Mr. MacDonald and Mr. Thomas are concerned that the proposed enlarged role of the Ombudsman as a person consulting on resident involvement might jeopardize the main function of an Ombudsman.

They believe the Ombudsman can be effective only if the office is seen to be apart from partisan political activity; otherwise the integrity and impartiality of the office will be open to question. Allowing the Ombudsman to be identified with resident groups seeking to influence the political direction of Council would destroy his credibility.

In studying the issue of future forms of citizen involvement the Council would undoubtedly wish to consult with the Ombudsman to obtain the benefit of his experience in working with individuals who have problems with city government. In the opinion of Mr. MacDonald and Mr. Thomas, this is different from giving the Ombudsman a statutory role to consult on a continuing basis with resident groups, politicians and civil servants. They are concerned about the potential for the Ombudsman to become entangled in political disputes.

The majority of the Committee sees the proposal as going only as far as requiring the Ombudsman to take positive steps in helping the City to implement our proposed Section 23. They do not agree that this consultation process will identify the Ombudsman with particular citizen or interest groups.

The opinions of Mr. Thomas and Mr. MacDonald with regard to the Municipal Tribunal necessarily lead them to reject the idea that unresolved complaints could proceed to a Municipal Tribunal.

SECTION 10: ENFORCEMENT

Introduction and Summary

In this part, the Review Committee addresses the difficult problem of ensuring that the City lives up to its responsibilities as established by **The City of Winnipeg Act**.

We have alluded to this problem in various earlier sections of this Report. We have indicated that the ballot box is, in our opinion, the best means of enforcing the political will of the residents of Winnipeg; that we believe electors require a clear and accountable structure in order to use the ballot box well; and that publicity is often the most powerful tool available to the ordinary resident for enforcing his or her rights.

We have described and recommended a different and, more understandable and accountable political structure with clear and less complicated procedures.

We have also provided for specific mechanisms to be available to the ordinary resident who feels that his or her rights are being abridged.

The first mechanism is found in the annual report required from the Executive Committee and Council. The report, pursuant to Recommendation 46, must contain a statement on four of the Council's statutory obligations and the action taken during the year to fulfill those obligations. The statement furnishes the resident with two useful pieces of information: a description of the Council's obligations and a description of Council's view of those obligations.

Using this information, the ordinary resident can turn initially to his or her Councillor or Community Committee for redress.

The second mechanism is the Ombudsman's report to Council and to the residents of Winnipeg on how the City has fulfilled its statutory obligations (see Recommendation 59). This report by an independent statutory officer will provide the counterpoint to the report of the Executive Committee and Council.

The third mechanism is the case work function of the Ombudsman's office. The Ombudsman would perform the conciliation that is often needed between the aggrieved resident and the administrator. The Ombudsman could not order any politician or civic administrator to do something, but could use the powers of persuasion or publicity (see Recommendation 59).

In the Committee's judgement, however, residents of Winnipeg must also have the ability to seek enforcement of their rights through other means if civic politicians or administrators refuse or neglect to do so.

This section provides the Committee's best solution to the problems of enforcing the City of Winnipeg Act.

It contains a recommendation that the Province be prepared to take back powers given to the City if the City does not use or abuses those powers.

This section also contains a recommendation—put forward with some misgiving on the part of the Committee—that the Province create a Municipal Tribunal to ascertain the rights of persons affected by the Act. This recommendation notes the concern that such a Tribunal, if not properly supported by the Province, would simply create another level of bureaucracy and a complex legal process—neither of which the Committee seeks. The Committee therefore indicates that if this recommendation is not properly implemented the Province should take responsibility for enforcing its own Act rather than placing that responsibility on the ordinary resident of Winnipeg.

10.1 ENFORCING THE CITY OF WINNIPEG ACT

Recommendation 60 *Province May Reclaim Powers Delegated to the City*

The Review Committee urges the Minister to monitor the performance of the City under the Act, and, the City failing to comply with the intent of the Act or neglecting its statutory obligations, the Executive Council should exercise its authority to reclaim powers previously granted to the City, subject to review by the Legislature at a subsequent session. The Act should be specifically amended to provide for this sanction, and to put the City on notice as to the Province's willingness, and indeed its legal responsibility, to move decisively as required.

Discussion

The Review Committee has recommended throughout this Report that the Province grant broader and more flexible powers to the City of Winnipeg. Within the more extensive field of municipal authority, however, specific obligations, conditions, restrictions, procedures, and terms of reference are suggested by the Committee in such areas as political organization, planning, administration, resident participation, and services. This recommendation provides for enforcement of these obligations by the Provincial Government.

Powers granted and responsibilities conferred on the City by the Legislature must be respected by both the City Council and the Provincial Government. The Committee has elsewhere recommended much closer collaboration between the City and the Province (see Recommendation 5), and preparation of the plans called for in Part XX (see Recommendation 25). If such collaboration occurs many of the problems, frustrations, and delays which plague the Provincial-City relationship and the planning process will be minimized.

The City cannot properly claim to need statutory powers to fulfill its obligations and responsibilities if it does not use them. The ultimate responsibility to see that orderly and effective governance takes place in the City rests with the Province. If those objectives cannot be or are not realized through the delegation of authority to the City, the Province has an obligation to take back that authority. We do not anticipate that this will occur, but the provision must be made.

The Act must provide, therefore, that when the City fails in its statutory obligations within the conditions and time limits established, the Executive Council may revoke and assume any or all of the powers conferred on the City and must forthwith cause the Legislature to be called into session to consider appropriate action.

10.1 ENFORCING THE CITY OF WINNIPEG ACT

Recommendation 61 *Establishment of a Municipal Tribunal*

The Review Committee recommends that the Act establish a Municipal Tribunal having the power to

hear applications by any person or group to determine the rights of that person under *The City of Winnipeg Act* and/or under the administration of the Act. In legal terms, the Tribunal would have the power to hear applications alleging that the City had denied or exceeded its jurisdiction, or had denied a person natural justice, or had not complied with statutory requirements; it would also hear applications requesting an interpretation or declaration of rights under the Act.

Although a Court would be able to review the decisions of the Municipal Tribunal to see if they were made within the jurisdiction of the Tribunal and without denial of natural justice, there should be no appeal from a decision of the Municipal Tribunal on any other grounds.

Decisions of the Tribunal would be filed in the Court of Queen's Bench as enforceable judgements.

The chairperson should be appointed by the Lieutenant-Governor-in Council on the recommendation of the Standing Committee of the Assembly on Privileges and Elections (or another all-party committee of the Legislature) for a five-year term, and could be removed only by a vote of two-thirds of the members of the Legislative Assembly present and voting.

Other members of the Tribunal should be appointed on a part-time basis with staggered three-year terms. City Council would have the right to appoint one-third of the part-time members, upon the recommendation of a nominating committee of Councillors selected by the Presiding Officer.

The presence of at least three members of the Tribunal, including at least one City appointee, should be required to conduct a hearing. Initially there should only be three members on the Tribunal, with others added as required.

The Tribunal should have the right, upon giving proper public notice, to treat a complaint from an individual as raising an issue deserving of a public enquiry and to hold such public enquiries as it deems fit.

The Tribunal should have the right to dismiss, without hearing, any complaints made to it that are in its opinion frivolous, vexatious, or without merit.

All references to the quasi-judicial functions of the Municipal Board in the Act should be deleted and the functions transferred to the Municipal Tribunal.

The Committee further recommends that if the Province does not establish a Municipal Tribunal then it should, through the intervention of the Attorney-General, take action to see that the Act is enforced through the courts at the Province's expense.

Discussion

The Committee believes that the best way to determine political issues is through the political process and ultimately the ballot box; but many political questions are also legal ones. The Courts have always had a role in determining whether or not cities are acting in accordance with the laws that create them and that describe their powers and responsibilities. With the introduction of *The Charter of Rights and Freedoms*, the courts will become more powerful in that regard.

The Province of Manitoba has placed statutory obligations on the City of Winnipeg. Some of our recommendations would place further obligations on the City. We have already expressed our view that the City has, with respect to certain of its obligations, failed to obey the law of this Province (see Recommendations 25, 27, and 57).

Yet the Province has not taken action to force the City to obey its own law. It could do so by amending the Act to provide some penalties for failure to obey; it could do so by going to Court itself. The Province therefore must take some responsibility for the City's failure to obey the law.

It is understandable, given the political realities of Manitoba, that the Province should shy away from using the court system to force the City to obey the laws. The City is the one large city in Manitoba—containing well over half the population. It is therefore a very politically-powerful government in relation to the Province.

At present people who are willing to spend the money, or people who qualify for Legal Aid, can go before the Court of Queen's Bench through a relatively complicated and expensive procedure, usually requiring a lawyer, to see whether or not *The City of Winnipeg Act* gives certain rights to them. The Court can make an enforceable Order on their behalf.

People who cannot afford a lawyer are effectively unable to go to the courts for a declaration as to their rights. Legal Aid Manitoba has guidelines for eligibility which effectively eliminate all but the lowest income person; as well, its Public Interest Department, although having a broader mandate, is still limited to legal issues which would be of some benefit to people who qualify for Legal Aid.

The concept behind the Committee's recommendation is to provide a specialized forum which can deal with some of the same municipal issues that courts do, but with less pomp and ceremony. Non-lawyers cannot represent another person in the Court of Queen's Bench, but in the Municipal Tribunal laypersons could represent residents, or themselves, without having to hire a lawyer. The Tribunal could hear more technical evidence (relating to city issues, planning, and the rest) without the rigamarole associated with the strict evidentiary rules of a court.

We recommend the creation of a Tribunal with a capable administrative staff able to do some investigation of a complaint on its own. It would have the right to deny a hearing based on a finding that the complaint is completely without merit, or to provide a summary of its investigation to all parties prior to a hearing in order to speed proceedings.

The Tribunal should be less expensive for residents and more informal. It would develop over a period of time the specialized experience and precedents most useful in quickly judging the rights of residents and other persons affected by City actions or non-actions. The Tribunal should also be able to expand the context of a complaint into a public inquiry, which could then deal with broader issues more expeditiously.

It is not intended to add to any rights already possessed by residents; only to provide an equitable and accessible forum for any resident to assert those rights.

There has been some legal question as to whether such a Tribunal could, under Section 96 of *The Constitution Act, 1867* (the "British North-America Act"), function in the manner described. A meeting of lawyers well-versed in municipal and administrative law was convened by the Committee and it was generally agreed that such a Tribunal could legally function so long as the jurisdiction of that Tribunal was open to review in the Court of Queen's Bench.

That same meeting expressed concerns, however, about the value of such a Tribunal, concerns shared particularly

by Mr. Macdonald and Mr. Thomas of the Review Committee. They question whether the advantages of the Tribunal compared to the Court of Queen's Bench will be realized. They say that the necessity of creating a new body to correct failures by the City of Winnipeg to fulfill its statutory obligations, to deal with cases where the City exceeds its jurisdiction or to protect the procedural rights (such as natural justice) of citizens in their dealings with the City, has not been proven to their satisfaction.

The Committee heard from a number of citizens who were disgruntled with decisions or non-decisions by City Council, its committees, or the civic administration. Most of these complaints raised questions of policy rather than of law. The remedy for policy disputes and for alleged unfairness in the political process is a political one, and it consists of more than simply voting against Councillors at the next civic election. Elsewhere in this report, the Review Committee is recommending the appointment of a City Ombudsman. The availability of the services of the Ombudsman to conciliate and to publicize citizen complaints about the actions and inactions of the City's departments and agencies will reinforce the continuous process of Councillors seeking to help constituents. There have been cases in recent years where citizens have felt compelled to take the City to court. Without having conducted an empirical survey, Mr. Thomas and Mr. MacDonald surmise that the number of such cases remains miniscule compared to the multitude of situations resolved by citizens simply contacting City officials, perhaps with their Councillors acting as intermediaries.

A second and related concern of theirs involves the alleged advantages of the Tribunal over the Court of Queen's Bench. Tribunals are said to offer a number of valuable features: greater use of personnel who have specialized expertise; greater reliance upon investigation to supplement the adversarial presentation of a case; less strict rules about what constitutes evidence; less formal procedures; and, in general, an atmosphere where the applicant is treated more as a "customer" in whose problem the Tribunal is involved and less as a "suppliant" whose affairs the court views with detachment. Tribunals are said to offer a less costly and more expeditious delivery of justice than do the ordinary courts.

Mr. MacDonald and Mr. Thomas say that unfortunately, often these assumed advantages are not fully realized in practice and often exaggerated. The Court of Queen's

Bench has acted with dispatch in the past. It is true that some tribunals, because of the nature of their subject matter, would allow individuals to appear without the benefit of legal counsel. However, the proposed tribunal would be working with a statute, **The City of Winnipeg Act**, and the type of cases likely to come before it would involve development and taxation issues where specialist lawyers practice and where large amounts of money are often involved. Over time the Tribunal might well become "judicialized" in its operations: a growing reliance upon lawyers; the prevalence of an adversarial approach; stricter rules of evidence; and less informality. In summary, the distinction between the Tribunal and a court would become one of degree, not of kind.

The other members of the Review Committee also recognize that the Tribunal could be seen as a breeding-ground for specialists—whether lawyers or other people with experience in appearing before it. This would add tremendously to the cost of appearing before the Tribunal and it would mean the development of another complicated set of rules. This has happened to many administrative tribunals originally created to provide relief to laypeople from the complexity of the court system.

The majority of the Committee believes that the only way to ensure that residents can continue to appear on their own behalf is to make certain that the people appointed to sit on the Tribunal are effective and concerned specialists themselves and that they are well-supported by investigative, legal and administrative staff. It is the members of the Tribunal who can best help laypeople to present the issues, to deal effectively with technical legal arguments, and who can encourage an informal but effective method of doing business.

Such a tribunal would certainly cost money; the majority of the Committee thinks the expenditure would be worth the gains in effective determination and enforcement of the rights of residents, and by the reduction of demands on the courts.

The majority of the Committee thus believes that, properly supported, such a Municipal Tribunal would be the best method of securing resident rights.

If, however, the Province continues to use the Court system as the method of ultimately determining rights and enforcing **The City of Winnipeg Act**, the Committee unanimously agrees that the Province must diligently enforce its own Act.

SECTION 11: ADDITIONAL RECOMMENDATIONS

Introduction and Summary

The Review Committee received numerous suggestions from individuals and groups for amendments and/or additions to **The City of Winnipeg Act**. In addition, we reviewed all the requests for change that had been made—in the form of submissions to the Minister of Urban Affairs—prior to the formation of the Review Committee, including requests made by the City of Winnipeg. Most of these requests have been taken into account in formulating recommendations found in sections 5 through 10 of this Report. Nevertheless, there are some outstanding issues that remain.

One set of issues dealt with in this section involve recommendations designed to "clean up" the Act. Since the Act is an amalgam of sections of pre-1971 legislation, new sections added in 1971, and subsequent amendments, it has become an increasingly complex document. We make several recommendations designed to make the Act more understandable, both by addressing issues of clarity and consistency and by suggesting ways to reduce what we consider to be unnecessary restrictions on City Council's ability to govern. This section also addresses issues related to the **Canadian Charter of Rights and Freedoms**. We recommend that the Act be reviewed by the Attorney-General's Department to ensure that it conforms in all respects with the Charter.

Finally, the Review Committee addresses the sensitive issue of the relationship between School Boards and the City of Winnipeg. Our terms of reference did not permit a detailed examination of all the issues that could and should be addressed with respect to educational services and facilities in the City. Nevertheless, we have agreed to make three recommendations on the subject, dealing with school division electoral boundaries, unification of school divisions within the City, and coordination of planning, policies and programmes between the school divisions and the City.

11.1 CLEANING UP THE ACT

Recommendation 62 *Making the Act More Understandable to the General Public*

The Review Committee recommends that the Provincial Government consult with the City of Winnipeg to consider means to render *The City of Winnipeg Act* more understandable to the average person.

The Review Committee further recommends that the Province provide a detailed, workable and current index for *The City of Winnipeg Act*.

The Review Committee further recommends that the City consider producing a guide that would especially explain those parts of the Act setting out the City's political structure, Council's powers and responsibilities, and the rights of residents.

Discussion

The **City of Winnipeg Act** is both an Act creating a municipal government unique in North America, and a series of provisions from older statutes that have remained unchanged for many years.

The Act in its current form is 376 pages long and contains over 680 sections. Like most provincial statutes, it is a complicated document. Certain parts of the Act are highly

technical but are not of immediate importance to the general public.

The Act clearly needs rewriting. As we have proposed in Recommendation 63, it needs rewriting to give clarity to the powers exercised by the City. But the Act needs rewriting as well to make significant parts of it more understandable to the general public. Municipal government is important to every resident. The governing law of the City of Winnipeg ought not to be so intimidating that only a lawyer can read and understand it. To the contrary, every resident of Winnipeg ought to be able to understand his or her basic rights and the political structure, powers and responsibilities of his or her municipal government.

In addition, the Act needs a current and workable index. The existing index makes it difficult to find certain topics and to be certain that topics are discussed only in one part of the Act and not in others.

The Act by its very nature requires aids to its understanding, and the Committee encourages the provincial Government to assist residents in understanding it by recasting it in a comprehensible form and in straightforward language. In addition, we recommend that one of the means of achieving the goal of general understanding is to have the City produce, as a separate document, a booklet—"A Citizen's Guide to The City of Winnipeg Act"—that should be available free to all City residents.

11.1 CLEANING UP THE ACT

Recommendation 63 *Clarifying the Powers and Responsibilities of Council*

The Review Committee recommends that the Provincial Government consult with the City of Winnipeg to consider the legal implications of the way *The City of Winnipeg Act* is written in order to ensure that the manner by which powers are granted to the City does not unduly restrict the exercise of those powers.

Discussion

The Review Committee is aware that City Solicitors throughout the country advise their clients that municipal governments can act only within the very specific powers spelled out in the provincial statute that creates them. The advice is given because of the way courts have traditionally treated municipal governments. The legal basis for the courts' decisions is not important for the purpose of this discussion, but municipal governments have been forced to act in a far more constricted manner than their federal or provincial counterparts.

The **City of Winnipeg Act** of 1971 certainly attempted to provide the City of Winnipeg with as powerful and broad a mandate as any city in Canada. Certain sections of Act have been used to good effect to persuade courts that, within the powers given to it by the Act, the City of Winnipeg's exercise of those powers should not be overturned by the courts. In particular, sections 99 through 101 appear to provide the City with very broad powers to act in any way that the Council decides to act.

Yet the Act is an amalgam of old and new. The new parts give broad powers to the City. The old parts, taken from statutes written many years ago, give very specific powers to the City. Because of certain methods of legal interpre-

tation, the specific powers allow courts to restrict the broad powers, and thus restrict Council's deliberations and policy decisions.

The Committee has not made detailed recommendations on how the Act should be rewritten to give the City a broad mandate congruent with the powers assigned by the Provincial Government. The Committee did convene a meeting of lawyers skilled in municipal law. These specialists suggested that only a very careful reading and reworking of each section of the whole Act could appreciably change the legal situation. Accordingly, we recommend that such a reading and reworking take place in order to allow Council to operate with as broad a mandate as possible.

That same meeting of lawyers generally agreed that one change that could enhance the City's ability to act would be to amend section 126 of the Act to read:

The Council may pass by-laws and resolutions and may make regulations not contrary to law, respecting matters for which provision is not specifically made herein, and without restricting the generality of the foregoing may pass such by-laws or resolutions, or may make such regulations, for the health, safety, and welfare of the inhabitants and for the peace, order and good government of the city as the Council deems necessary.

The current section allows the Council to make regulations by by-law "for the peace, order and good government of the city", but not to pass by-laws or resolutions for that purpose. Amending section 126 as proposed might persuade the courts to treat the City of Winnipeg as a government able to act with broad authority within its jurisdiction.

11.1 CLEANING UP THE ACT

Recommendation 64 Reducing Restrictions on Council's Authority

The Review Committee recommends that the Provincial Government, in consultation with the City of Winnipeg, reduce the number of sections in the Act that:

- give the Provincial Government, or any member of the Cabinet, power to overrule decisions of the City of Winnipeg;
- require Council to act specifically by passing by-laws; and
- impose unnecessary statutory obligations on Council.

Discussion

The three areas discussed here are means by which the Provincial Government has limited the discretionary power of the City of Winnipeg. The Review Committee has indicated throughout this Report that there are legitimate reasons for Provincial limitation of the City's discretion.

For instance, the Committee has made recommendations that:

- the Provincial Government should have the right to amend the City's Plan (see Recommendation 25);
- Council should act in certain cases only by passing a by-law (see Recommendation 8);
- the City should be required by the Act to provide services in both official languages (see Recommendation 55), implement techniques of resident involvement (see Recommendation 51), and pass an access to information by-law (see Recommendation 47).

In each case the Committee has carefully weighed the advantages of having a more autonomous and accountable City Council against the advantages of retaining some Provincial involvement in and authority over City decisions. The Committee has commented at length on these considerations in Section 5 of this Report, and provides a specific rationale for each such recommendation we make.

The Committee has not had the resources to do a line-by-line analysis of **The City of Winnipeg Act**. We were unable to obtain from the Department of Urban Affairs a list of those sections of the Act described in this recommendation. We believe, however, that a careful reading of the Act will disclose many sections which unnecessarily limit the actions of the City.

We are particularly concerned about those sections of the Act which require the City to pass by-laws in order to take action. Section 99.1 of the Act restricts Council from delegating "any of its powers or duties which by this Act it is required to enact, approve or authorize by by-law." We agree that this section should be retained; we also believe, however, that either Executive Committee or the administration should have delegated to it by Council all the numerous day-to-day decisions that must be made (see Recommendation 23) in order to have Council meetings deal with policy issues and become a forum for debate on municipal matters. An undue restriction on Council's ability to delegate slows and complicates the efficient operation of the City.

11.1 CLEANING UP THE ACT

Recommendation 65 Issues of Rights and Freedoms under the City of Winnipeg Act

The Review Committee recommends that the Attorney-General review the Act and ensure that it conforms to the Canadian Charter of Rights and Freedoms.

Discussion:

The Attorney-General's Department is conducting a complete review of Manitoba Statutes to make certain that they all conform with the **Canadian Charter of Rights and Freedoms**.

Certain sections of **The City of Winnipeg Act** were brought to the attention of the Review Committee by the Manitoba Association for Rights and Liberties (MARL) in an excellent review of major parts of the Act. The Review Committee has incorporated the concerns presented in the MARL brief elsewhere in this Report. But these specific sections certainly should be addressed by the Attorney-General's Department in its review. We will forward a copy of the Association brief to the Attorney-General for comment and action.

The Committee has not done a line-by-line analysis of the Act and consequently cannot state that these particular sections are the only ones that raise **Charter** issues.

11.1 CLEANING UP THE ACT

Recommendation 66 Deletion of Specific Sums in the Act

The Review Committee recommends that the Act be amended to delete all sums now specified in various sections, such as license fees, penalties, interest rates, and grants-in-lieu of taxes. In many cases, these sections should be replaced by a statement enabling Council to set such amounts. In other sections, sums should be tied to amounts established

elsewhere, such as taxes, assessed value, and actual costs.

Discussion

The City has requested a number of times that the Government amend the Act to replace outdated dollar amounts specified years ago with more up-to-date amounts. For example, recent requests for amendments have included:

- December, 1984: raising the penalty for defacing or removing unsanitary premises placards from \$5 to \$10 to \$50 to \$100. [section 448(4)].
- December, 1984: raising the penalty for renting or occupying a placarded premise from \$5 to \$10 to \$50 or more. [section 448(6)].
- October, 1983: raising sinking fund investment interest rates from 5% to "not more than 10% per annum capitalized yearly". [section 303(2)(c)].

The Committee recommends a more general approach that eliminates periodic revision of such details by the Province. This approach places the responsibility to establish specific amounts in the hands of City Council.

The City has the power to establish rates as it sees fit for any commodity or service it provides and to make regulations pertaining thereto. Similar broad enabling provisions should be applied to specific monetary amounts of fees, penalties, and interest rates.

11.1 CLEANING UP THE ACT

Recommendation 67 *Affirmative Action*

The Review Committee recommends that if affirmative action is to be addressed by statute, it should only be addressed in a statute applying to all municipal jurisdictions; *The City of Winnipeg Act* should not be singled out for special legislative attention on this topic. The Committee also recommends that the City continue its voluntary efforts to achieve a more representative work force at all levels of the municipal civil service.

Discussion

The Committee received excellent briefs requesting that we recommend that the City be obliged by law to institute a programme of Affirmative Action. Affirmative Action involves measures to overcome systemic and historical discrimination through mechanisms to give advantages in hiring and promotion. In some cases the briefs encouraged the City to institute such a programme voluntarily and, failing that, asked to have the statute impose a programme.

The Committee believes that the question of affirmative action is one that should be addressed either voluntarily by the City itself, or statutorily through human rights legislation; either possibility is beyond our mandate. The issue is one that must be addressed by politicians, either municipally or provincially.

It is also our understanding that the Manitoba Human Rights Commission has developed a procedure for receiving public submissions, sometimes through a public hearing, on applications for special programmes which include affirmative action programmes. This procedure was used recently by the Commission to review certain programmes proposed by the City of Winnipeg, which were given provisional approval. Thus there is a forum for expressing concern about affirmative action now. Any concerns about systemic discrimination can of course be referred to the Manitoba Human Rights Commission.

11.1 CLEANING UP THE ACT

Recommendation 68 *Miscellaneous Amendments to the Act*

The Review Committee recommends that sections 524(1) and 524(1.1) which, in effect, allow the City to revoke a licence to practice a trade and provide for an appeal to the same body that revoked the licence, be amended to provide that the Executive Committee have the power to revoke a licence with appeal to the full Council; or, if Council delegates revoking powers to Community Committees, the appeal should be to the Executive Committee.

The Review Committee recommends that section 545(b) of the Act require that the City can neither shut off the supply of utilities, nor charge a lien on property, for failure of a tenant to pay for utilities supplied by the City, unless notice to the owner of the property was given within 30 days of the failure to pay.

Discussion

In the case of the revocation of a licence, the appeal is to the same body that revoked. The Review Committee agrees that this is not proper, and believes that the proper appeal body is Council if the revoking body is Executive Committee; or the Executive Committee, if the revoking body is a Community Committee.

Section 545 of the Act gives the City the power to "establish rates for any energy, power, commodity, water or service which it supplies." In addition, that section provides that the City can put a lien on property in case of non-payment of the rates. A concern was expressed by the Manitoba Landlords Association that a landlord may thereby be penalized for non-payment by a tenant. The Review Committee is not prepared to recommend a wholesale change to this policy issue, but does agree that notice should be required by the Act to provide the landlord sufficient time to get relief from the tenant or to make payment prior to the shutting-off of the utility.

11.2 CITY-SCHOOL DIVISION RELATIONS

Recommendation 69 *School Division and Municipal Electoral Boundaries to Remain Not Congruent at Present*

The Review Committee recommends that no action be taken at this time to bring electoral boundaries within school divisions into conformity with the City's ward or Community Committee boundaries. Consideration of this issue should be addressed, however, after the completion of a school division consolidation study as proposed by the Committee (see Recommendation 70).

Discussion

There are four school divisions entirely within the boundaries of the City of Winnipeg: Winnipeg No. 1, St. James-Assiniboia No. 2, Assiniboine South No. 3 and Norwood No. 8. Seven other school divisions are partly within the City's boundaries: St. Boniface No. 4, Fort Garry No. 5, St. Vital No. 6, River East No. 9, Transcona-Springfield No. 12 and Seine River No. 14.

The fact is that only coincidentally is there a match in the boundaries of wards created for the purpose of electing school trustees and the electoral boundaries of wards in which municipal Councillors are elected. This was brought to the Committee's attention by a number of school divisions.

The lack of congruence creates some confusion for voters in the City. They ask: What municipal ward am I in?, and in what school division? This results in Election Day confusion as polling places maintain separate ballot boxes for separate but overlapping municipal and school division wards. Similarly, in talking with neighbours and friends at tax time, they ask: If education is one service, why does it cost more (or less) here than across the street?

The Review Committee recognizes these difficulties and suggests that the Provincial Government examine at an appropriate time the consequences of differing municipal boundaries, intra-municipal ward boundaries, school division boundaries, and intra-school division boundaries within the Winnipeg region. We are convinced, however, that there are more fundamental and difficult issues which should be addressed first.

Above all, the desirability, necessity, and utility of retaining the existing 11 school divisions within the City should be examined (see Recommendation 70).

A determination should then be made as to the practicality of allowing the several school divisions or a new consolidated division to continue to draw electoral boundaries while the municipal ward boundaries are determined by the Provincial Government with the advice of a boundaries review commission (see Recommendation 16). Finally, the impact of the representation systems in both jurisdictions for coordination of their policies, plans, and programmes should be assessed and measures taken as needed (see Recommendation 71).

11.2 CITY-SCHOOL DIVISION RELATIONS

Recommendation 70 *Initiation of a School Division Consolidation Study*

The Review Committee recommends that the Provincial Government, in consultation with the school divisions and municipalities of the Winnipeg region, initiate a study of the desirability and feasibility of consolidating or unifying the school divisions within the city.

Discussion

The **City of Winnipeg Act** of 1971 has now resulted in nearly-complete unification of municipal services, but the largest service delivered at the local level—public education—has not been unified. The delivery of educational services by the 11 school divisions located completely or in part within the City is organized in much the same way as the delivery of municipal services: a locally-elected body raises revenues and delivers a service under provincial legislation within a defined area.

The patchwork pattern of school divisions in the Winnipeg area is a product of earlier times and may no longer be useful or needed. The Review Committee urges the Provincial Government to begin the process of reevaluation of the governing structure for educational services within Winnipeg, by initiating a study of the desirability, necessity, and impact of amalgamating or consolidating of school divisions within the City's boundaries.

11.2 CITY-SCHOOL DIVISION RELATIONS

Recommendation 71 *Review of Policy, Planning and Programme Coordination*

The Review Committee recommends that the Provincial Government create a study team of officials from the school divisions, the City of Winnipeg, the Manitoba Department of Education, the Public Schools Finance Board and other Provincial bodies to review and make recommendations for improving the coordination of their policies, plans, and programmes within the City.

Discussion

Regardless of the outcome of the consolidation study proposed in Recommendation 70, there is clearly a need to determine the effectiveness and efficiency of the existing coordination process among the City, the school divisions, and involved Provincial departments and agencies.

While the pupil load in some areas is steadily mounting and the schools are bulging with children, depopulation and demographic change are resulting in declining enrollments and are making facilities surplus in other areas. The public may reasonably expect that school children are entitled to schools of roughly equal quality and that taxpayers are entitled to protection of the very substantial public investment in schools.

It is the practice of the City to inform school divisions of development applications for subdivisions but there is no formal notification procedure for applications of lesser magnitude. Zoning and development decisions have a significant impact on school facilities; conversely, school division decisions on location and closure of facilities, curriculum and special programmes, and many other matters have major effects on the City's plans and policies. The policy of sharing use of school and park facilities by educational, community club, and other organizations is still not being implemented on a consistent or uniform basis or necessarily to the best advantage of residents and taxpayers. Numerous other items would also be on a list of coordination issues requiring review and resolution.

The Committee recommends that the Provincial Government take the initiative.

SECTION 12: IMPLEMENTATION

Recommendation 72 *Extension of Term of Council to October 1987*

The Review Committee recommends that the Provincial Government amend the Act to extend the term of the present Council to October 1987 in order to implement the recommendations contained in this Report.

Discussion

The next municipal election in Winnipeg is set to take place in October 1986. As it appears that there will be a provincial election in the spring of 1986, the chances of a legislative session that could deal with major change to **The City of Winnipeg Act** prior to October 1986 are very slim. Thus amendments to the Act cannot take practical effect in time for the next municipal elections.

We believe that postponing changes to the Act to take effect as of the municipal elections in October 1989—whether they are changes the Committee recommends, or others that the Provincial Government decides are reasonable after considering our report—would not be advisable. Not only would a delay of that length reduce the value of our analysis and recommendations, it would simply not address and rectify the shortcomings identified in the Act in as expeditious a manner as is required.

As we have indicated, there should be a Boundaries Review Commission appointed immediately (see Recommendation 16); the changes in Winnipeg's population since the last ward and Community Committee boundary changes in 1976 create serious inequities. There simply is not enough time to change the City's internal political boundaries before the scheduled 1986 elections.

When the Provincial Government created Unicity in 1971, it extended the terms of the then-elected aldermen, Metro Councillors and members of the suburban municipal councils, in order to give the Government time to implement the new Act.

That is what we are recommending now. We believe that postponement of the municipal elections by one year would give a welcome opportunity to implement changes to **The City of Winnipeg Act** in the phased-in manner we suggest in Recommendation 71.

Recommendation 73 *Phased Implementation of the Committee's Recommendations*

The Review Committee recommends that the changes recommended in this Report be phased in over a period of three years, from 1986 through to 1989.

The most desirable sequence of implementation of our recommendations by the Provincial Government and the City Council is provided below. Dates specified indicate when the change should be in place and operative.

The prerequisite for this schedule is the extension of the term for members of Council to October 1987 (see Recommendation 71). This change should be made in an early legislative session in 1986 (Phase 1).

Our recommended phasing from that time is based on our view that crucial changes can and must be accomplished in a 1986-87 fall/winter session of the Legislature (Phases 2 and 3). All changes preparatory to the October 1987 municipal elections should be in place by April of that year, as should the various review teams, enforcement mechanisms and municipal by-laws called for in this Report.

By October 1987 (Phase 4), when the new Council assumes office, all required amendments to the Act should be in effect, so that the Mayor, Executive Committee and Community Committees may function as intended in this Report.

By April of 1988 (Phase 5), Executive Committee and Council should have begun to exercise their authority to adjust the administrative structure as required and to assume their broadened powers and responsibilities.

Finally, in 1989 (Phases 6 and 7), both the City and the Province should be in the position to make mandated decisions and clarify their respective authorities, based on over a year's experience with the new system. By April of that year, we recommend that a newly drafted, simplified and easily-read **City of Winnipeg Act** be completed and proclaimed.

In what follows the number at the left-hand margin is the number of the recommendation in this Report.

PHASE 1—to be completed by April 1986 **Implementation**

72 Extension of Term of Council to October 1987

Resident Involvement

53 Interim Continuation and Support of Residents' Advisory Groups

54 Advancing Resident Involvement

Information

49 Provision of Municipal Information to Residents

51 Council Required to Establish Means of Involving Residents

PHASE 2—to be completed by October 1986 **Community Committees and Wards**

16 Reduction in Number of Wards and Size of Council (effective October 1987)

16 Appointment of Boundaries Commission

City-School Division Relations

69 No Congruence of School Division Electoral Boundaries

70 Appointment of School Division Consolidation Study Team

City Council and Mayor

13 Appointment of a Council Compensation Commission

Provincial-City Financial and Service Relationship

1 Appointment of Provincial-Municipal Urban Finance Review Study Team

Urban Environment

- 36 Review of Jurisdiction and Coordination of Regulatory Powers over Urban Waterways
- 37 Increased Powers for the City over Waterways
- 38 Establishment of a Winnipeg Rivers Corporation
- 39 Establishment of a Regional Environmental Advisory Panel

The Additional Zone

- 40 Abolition of the Additional Zone

Inter-municipal Relations within the Winnipeg Region

- 43 Power of City to Acquire Land in Other Municipalities
- 44 City Adherence to Approval Requirements of Other Municipalities
- 45 City to Pay Full Grants-in-lieu of Taxes to Other Municipalities

French Language Services

- 55 Definition of "Communication" and Provision of Emergency Services in Both Official Languages
- 56 Recognition of the Bilingual Character of "Historic St. Norbert" under Part III

Referenda

- 58 Deletion of Provision for Referenda

Ombudsman

- 59 Establishment of a City of Winnipeg Ombudsman

Information

- 47 Council Required to Adopt an Access to Information By-law
- 48 Improving the Proposed Appeal Process Regarding Access to Information
- 50 Implementation of a Records Management System

Cleaning up the Act

- 66 Deletion of Specific Sums in the Act
- 67 Affirmative Action
- 68 Miscellaneous Amendments to the Act

PHASE 3—to be completed by April 1987

City Council and Mayor

- 8 A Strong Executive Committee (effective October 1987)
- 9 Strong Mayor (effective October 1987)
- 10 Presiding Officer (effective October 1987)
- 11 Types and Powers of Council Committees (effective October 1987)
- 12 Clarified Roles and Authority of Boards, Commissions, Advisory Committees, Authorities, and Corporations
- 13 Council Compensation Commission Recommendations

Community Committees and Wards

- 16 Adjustments to Ward and Community Committee Boundaries

Elections

- 17 Preferential Ballot to be Used to Elect Mayor and Councillors
- 20 City to Adopt an Election Expenses By-law
- 21 Revised Qualifications of Electors

Corporate Limits of the City

- 41 Adjustments to the Boundaries of the City

Intergovernment Cooperation and Consultation

- 6 Improved Internal Coordination within the City and Provincial Governments

City-School Division Relations

- 71 City-School Divisions Coordination Review

Enforcing the Act

- 61 Establishment of a Municipal Tribunal

French Language Services

- 57 Enforcing the City's Statutory Obligations under Part III

PHASE 4—before the October

1987 Municipal Elections

Elections

- 18 Mayor to Continue to be Elected City-wide
- 19 Councillors to Continue to be Elected from Single-member Wards

Community Committees

- 14 Increased Planning and Approval Powers for Community Committees
- 15 Increased Budgetting and Expenditure Powers for Community Committees

Content and Approval of Plans

- 24 Expanded Scope and Content of the Winnipeg City Plan
- 25 Revised Approval and Amendment Process for the Winnipeg City Plan
- 26 Special Area Plans
- 27 Local Plans
- 28 Development Control

Zoning and Development Approvals

- 29 Establishing Grounds in the Act for Approval of Zoning and Subdivision Applications
- 30 Establishing Responsibility for Zoning and Subdivision Hearings
- 31 Executive Committee to Decide Whether to Order a New Zoning or Subdivision Hearing
- 32 Determining Who Will Conduct New Zoning or Subdivision Hearings
- 33 Criteria for Zoning Changes and Zoning Variations, and Amalgamation of Zoning By-laws
- 34 Improved Zoning, Subdivision, and Development-Related Notices and Advertising

Environmental Impact Review

- 35 Environmental Impact Review Process

Intergovernmental Cooperation and Consultation

- 5 Establishment of a Formal Provincial-City Consultation Mechanism

Information

- 46 Executive Committee Required to Report on Fulfillment of its Statutory Obligations

PHASE 5—to be completed by April 1988

Administrative Organization

- 22 Administrative Organization to be Established by Council
- 23 Council may Delegate Administrative Authority to Employees

Provincial-City Financial and Service Relationship

- 2 Province to Broaden the City's Revenue-Raising Choices and Responsibilities
- 3 City to have Broader Responsibilities in Delivery of Social Assistance and Public Health Services
- 4 City to Assume Greater Responsibilities for Economic and Social Development

Inter-municipal Relations within the Winnipeg Region

- 42 Establishment of an Association of Winnipeg Region Municipalities

PHASE 6—to be completed by January 1989

Resident Involvement

- 52** Council to Make Decision Whether to Retain or Replace Residents' Advisory Groups

Enforcing the City of Winnipeg Act

- 60** Province May Reclaim Powers Delegated to the City

Cleaning up the Act

- 63** Clarifying the Powers and Responsibilities of Council
64 Reducing the Restrictions on Council's Authority
65 Issues of Rights and Liberties under the Act

PHASE 7—to be completed by April 1989

Cleaning up the Act

- 62** Making the Act More Accessible to the General Public

Intergovernmental Cooperation and Consultation

- 7** Province to Consult with the City on Future Act Reviews and Membership of Review Committees

Discussion:

The Committee considers it vitally important for any changes in the Act to be made in an orderly and logical fashion. These phasing and deadline recommendations are an appropriate guide and schedule for the implementation of our recommendations.

The crucial milepost in the Committee's proposed implementation schedule is the next civic election, which we recommend postponing for one year—until October 1987. Only a postponement of the civic election will allow time to make changes in the City's political structure at least six months prior to Election Day. It is imperative for candidates for municipal office to know well in advance the new powers and responsibilities of various offices, the new authority and political relationships established by statute, the new boundaries of ward and Community Committee, constituencies, the new electoral rules and requirements, and the new compensation package provided for elected officials.

We suggest further that the detailed studies and reviews we recommend be undertaken and completed in advance, to allow for adjustments in relationships and changes in legislation and by-laws to be in place by October 1987. The new Council, led by the Executive Committee and Mayor, must begin this new period in the history of Unicity with complete powers in place and procedural requirements settled, so that it is not restrained from meeting its responsibilities.

The Committee wishes to emphasize that considerable advance work and deliberation must be undertaken in order for specific changes to take effect by the dates suggested in the schedule. Thus, where we indicate statutory or civic changes to be in force by say, October 1987, it is clear that preparatory work on those changes must commence virtually immediately and be completed in sufficient time for legal drafting and the legislative process to take place.

SECTION 13: SUMMARY OF RECOMMENDATIONS

The Report of The City of Winnipeg Act Review Committee is a lengthy and detailed document. This summary is not comprehensive, and the reader who seeks to measure the full import of the Committee's recommendations—and the arguments advanced in support of the recommendations—is urged to consider the text itself, rather than this summary. While allusions to the Committee's reasoning are made here, no attempt is made to describe fully the rationale for proposed changes in the Act. Nor does this summary capture the cogency of the opinions of Committee members who have dissented from the recommendations of the majority. Once again the reader is urged to refer to the main text.

THE COMMITTEE MANDATE

The first section of the Report reproduces the operative terms of reference assigned to the Review Committee by the Provincial Cabinet and contained in two Orders-in-Council. The Committee was asked to review the effectiveness of **The City of Winnipeg Act** and the operations of the City government under the Act, with the exception of Part VII of the Act, which deals with assessment.

Specifically the Committee was asked to deal with five issues:

- 1) The relationship between the City and the Province and the powers that each one has;
- 2) The relationship between local communities within Winnipeg and the City of Winnipeg as a whole;
- 3) The relationship between the City and areas adjacent to the City;
- 4) The way in which city planning is done; and,
- 5) Citizen participation in the City's decision-making processes.

THE COMMITTEE PROCESS

The Review Committee convened in July, 1984, and decided to seek public discussion of the issues at hand. An information pamphlet was published in September, followed by a more detailed publication in November. The **Issues Paper** provided short discussions of a limited number of topics and outlined a series of options that could lead to some resolution of the issues. It was distributed widely. In January, 1985, the Committee began a round of public hearings, eventually extended to 29 hearings, carrying on until the end of April. A total of 216 submissions were heard and a further 80 written submissions were received. At the same time the Committee conducted a number of private hearings.

A parallel process occurred with respect to Additional Zone questions because it was the sense of the Committee that there was a possibility that the Committee's eventual recommendations could well incorporate the views of the various concerned parties.

After several months of reflection on the issues and internal debate, the Committee discussed some tentative conclusions with the Urban Affairs Committee of Cabinet, with a group of Opposition Members, and with City Councillors.

The Committee believes that its understanding was deepened and its recommendations improved by extensive public participation in the review process.

THE CONTEXT OF THE REVIEW

The Committee eschewed a theoretical exercise and focussed on the actual functioning of the City.

Winnipeg has its own political traditions which are different from those of other cities and other levels of government. Caution has been exercised in importing ideas and practices from other jurisdictions. Structures and formal rules are a part of Winnipeg's political tradition as are informal norms, values and habits which help to shape the behaviour of public officials and residents of the City. While changes to the structure and process of government will generally not lead to changes in attitudes, they can alter familiar patterns of behaviour.

City government is dynamic and evolutionary in nature. Its structures and activities have been shaped by geographic, economic, demographic and social circumstances, which have changed over time and will continue to change. In formulating its recommendations, the Review Committee has sought to give appropriate consideration to the many dynamic dimensions of our City.

PROVINCIAL-MUNICIPAL RELATIONS

This section of the report discusses the necessity of clarifying the jurisdictions of both the Province and the City and recommends measures to encourage a cooperative rather than adversarial relationship between the two. A wide-ranging introduction to this section examines the competing models of Provincial-Municipal relations that are advocated by adherents of the 'home rule' view of the relationship and by the constructionists who see the relationship only in terms of its constitutional limitations.

The Review Committee concludes that the relationship is really one of quasi-subordination, recognizing the constitutional superiority of the Provincial Government and also acknowledging the political potency of the City Government. The financial aspect of the relationship is seen as pivotal and the Committee urges both parties to abandon doctrinaire positions and recommends the creation of formal mechanisms to develop a forum for discussion and negotiation. The importance of structuring relations between the two levels of government to reveal which level is responsible for any given initiative, and thereby increasing accountability to the electorate is, emphasized.

Recommendation 1

The Review Committee recommends that the Province of Manitoba appoint a study team, including representatives of the City of Winnipeg, to undertake a comprehensive review of and make recommendations on, the future requirements for financing urban services and operations.

Recommendation 2

The Review Committee suggests that the Provincial Government provide the City with access to a wider range of revenue sources, on the condition that the City's responsibility for raising revenues through any sources be clearly attributed to the Winnipeg City Council.

Recommendation 3

The Review Committee recommends that the Provincial Government establish standards and provide 100 percent financing for social assistance and public health services in Winnipeg.

Recommendation 4

The Review Committee recommends that the City develop detailed policies and programmes for social and economic development in the City and that Council, in consultation with the Provincial Government, establish a joint City-Provincial task force to recommend and manage an

improved coordination system for developing policies and delivering programmes in the social and economic areas.

Recommendation 5

The Review Committee recommends that the Act establish a body to serve as a formal consultation mechanism between the Government of Manitoba and the City of Winnipeg. This consultation mechanism should bring together the Mayor and other members of the Executive Committee of Council and a committee of Cabinet responsible for Winnipeg affairs, created under **The Executive Government Organization Act**.

Recommendation 6

The Review Committee recommends that both the Province and the City take immediate action to provide more effective and efficient coordination within their respective systems. The need for action is apparent to us at both the political and administrative levels.

Improved internal coordination of policy formulation and departmental jurisdiction is a prerequisite to sustained Provincial-Municipal cooperation.

Recommendation 7

The Review Committee recommends that future reviews of "the operation of this Act and the activities of the city thereunder" (section 660) be undertaken in consultation with the city.

POLITICAL AND ADMINISTRATIVE ORGANIZATION

The Review Committee has sought primarily to create a clear and accountable political structure. Our proposal provides statutory authority for, and allows a significant additional delegation of Council's powers to, a small, full-time group of Councillors called the Executive Committee, led by the Mayor. This Committee would provide central policy initiation and would be responsible for overseeing and directing the administration of the City's business. Ultimate decision-making authority would continue to rest with the City Council, but the full-time Executive Committee would provide impetus and direction to Council activity.

The Committee proposes to augment the role of the Mayor by assigning new responsibilities to the Mayor, the only person elected with a broad mandate by all the electors of Winnipeg. Our intention is to provide him/her with the tools needed to become the effective leader of Council and we hope that the Mayor's new powers of initiative and leadership will translate into action by Council.

Once in office, the Mayor will nominate and chair the Executive Committee and represent the Committee within Council. The Mayor thus becomes the central actor in Council's political decision-making. As such, we believe the Mayor should no longer sit as Chair of Council. The Mayor's powerful role as new executive and legislative leader is inconsistent in our view with his current role as neutral presiding officer.

The degree to which authority is delegated is the key to whether the new structure will be complex or simple in its operation and how visibly accountable it is. Our recommendations would restrict City Council's power to delegate authority to groups of Councillors other than the Executive Committee and, in certain instances, Community Committees. The Committee believes that this restriction will provide for a clearer, more focussed exercise of power by the Executive Committee, and by the Community Committees, and will make it more difficult to create Standing Committees. We believe the Standing Committees, despite their usefulness in involving and informing Councillors, have on balance detracted from the effective, accountable and efficient operation of Council.

Community Committees currently have little power to make final decisions affecting their local area even if

those decisions would have little or no impact on any other community. The Review Committee has struggled to suggest a method for enhancing local decision-making without detracting from the paramountcy of city-wide interests. If Community Committees are to be retained at all they must be given a significant and effective role in the City's political structure. That role, we suggest, is best played with respect to local planning, local land use approvals, and local service decisions.

The Committee does not intend to insert—and indeed some members of the Committee reject—political or administrative mechanisms of a parliamentary nature within the Winnipeg municipal system. Where our proposals may be perceived by some to embrace the parliamentary model, they instead should be recognized as legitimate and useful mechanisms entirely within the varied tradition of municipal government in Canada and North America generally. On this point, the Review Committee clearly disagrees with our predecessor, the 1976 Committee of Review.

Recommendation 8

The Review Committee recommends that **The City of Winnipeg Act** provide for an Executive Committee composed of six Councillors and the Mayor, who will serve as Chair of the Executive Committee.

Recommendation 9

The Review Committee recommends that the Act set out the following rights and duties of the Mayor of Winnipeg:

The Mayor will nominate all members of Executive Committee and may remove Executive Committee members, subject to limited Council approval (see Recommendation 8). The Mayor will chair meetings of Executive Committee, will set its agenda, and will determine who will speak on its behalf before Council.

The Mayor has the right to speak first and last on the presentation of any by-law proposed by Executive Committee, but this right may not be used to close debate prematurely.

The Mayor appoints, with the approval of Executive Committee, all members of the subcommittees of Executive Committee.

The Mayor will continue to be a full-time person, provided with an office, budget, and staff. The Mayor is the chief signing officer for the City. The Mayor represents the City and Council at all ceremonial engagements or determines who will do so in his/her absence.

The Mayor will appoint a Deputy Mayor from among the members of the Executive Committee. The Deputy Mayor will exercise all the duties and rights of the Mayor in his/her absence.

Recommendation 10

The Review Committee recommends the creation of a new Council position known as the Presiding Officer of City Council.

The Presiding Officer would be selected by Council from among those Councillors who are not members of the Executive Committee. Council selection will be by secret preferential ballot at the first meeting of Council following an election or when the office becomes vacant during the term of a Council.

Recommendation 11

The Review Committee recommends that the Act allow the formation of subcommittees of Executive Committee and of Select Committees of Council with specific and limited terms of reference. All references to Standing Committees in **The City of Winnipeg Act** should be deleted, however.

Recommendation 12

The Review Committee recommends that Council re-examine and clarify the roles and authority of its various

civic boards, commissions, advisory committees, authorities and corporations. The Committee recommends that the following principles be applied in Council's re-examination:

- Public services which are the responsibility of City Council under **The City of Winnipeg Act** and which are delivered by employees of the City should remain under the direct control of City Council. Neither administrative control over civic employees nor budgetary discretion should be delegated in these areas to boards or commissions.
- Civic commissions, authorities and corporations that perform a special statutory function (as distinct from the routine delivery of a public service) may be established at the discretion of Council. In general, such bodies should not have members of Council on their boards.
- Council may also establish without limitation any advisory committees or boards to seek citizen advice or enlist expertise in specialized fields of civic responsibility. Such bodies should not contain any members of Council.

Recommendation 13

The Review Committee recommends that **The City of Winnipeg Act** require, a year prior to each civic election, that Council appoint a Council Compensation Commission composed of five members representing the community at large. The Compensation Commission may hold public hearings on the issue of Council compensation. Its report and recommendations must be available to the public. An honorarium should be paid to members of the Commission, and they should be provided with secretarial assistance.

The Review Committee recommends further that the recommendations of the first Compensation Commission, appointed immediately following the coming into force of this section of the Act (and if possible prior to the next municipal election), be mandatory.

In subsequent years, recommendations made by the Compensation Commission should be binding on City Council, unless modified by two-thirds of Council members present and voting. If Council chooses to alter the Commission's recommendations, it must do so by resolution prior to a civic election and must append a public explanation of the reasons for such changes. In any event, the compensation package should come into effect only after the municipal election.

The Compensation Commission should have the authority to recommend on stipends, other forms of monetary compensation, and staff or other support services to be provided to the Mayor, the Deputy-Mayor, the Presiding Officer of Council, the members of the Executive Committee, and other City Councillors. No additional compensation should be provided for any other positions or duties other than for those named above. The Commission should also have the authority to recommend non-monetary benefits for Councillors such as secretarial support, research assistance, office space, word processing equipment, and a budget for printing and communication with constituents.

Recommendation 14

In section 7, the Review Committee recommends expanded planning and approval powers for Community Committees. They are here grouped together and summarized, with some additional recommendations:

1. Local Plans

Community Committees should be empowered to initiate, prepare, and approve Local Plans by resolution, subject to Executive Committee review and possible amendment by City Council (see Recommendation 27).

2. Zoning Change Approvals

For any area in which a Local Plan is in force and effect, the Community Committee should be empowered to make final and binding decisions on applications to amend the zoning by-law (exclusive of text amendments), subject only to limited review by Executive Committee and the ultimate override power of Council (see Recommendation 30).

Executive Committee review of the public hearing process and decisions of the Community Committee should be based only on four grounds specifically spelled out and discussed in Recommendation 31. After review, Executive Committee would decide on the basis of its findings if a new hearing is required and whether the Community Committee or the Executive Committee (or its designated subcommittee) would conduct the new hearing (see Recommendation 32).

3. Initiation of Zoning Amendments

In areas for which Local Plans have been approved and are in force and effect, Community Committees should be empowered to initiate amendments to the zoning by-law. The public hearing provisions of the Act would apply. Executive Committee should review the recommendations of the Community Committee, and Council might ultimately exercise its power to override, as described in item 2 above.

4. Zoning Variance and Conditional Use Approvals

For all lands within a community, except those for which Council has adopted a Special Area Plan (see Recommendation 26), Community Committees should be empowered to issue final variance and conditional use orders, after conducting the required hearing. The decision of the Community Committee would be binding, subject only to review by Executive Committee. An order to rehear would be issued by Executive Committee only on grounds of violation of due process, of conflict with Council policy, and/or a municipal by-law.

Recommendation 15

The Review Committee recommends for Council consideration a specific scheme for extending limited control over local budgets and expenditures into the hands of Community Committees. We further recommend that the Act be amended to authorize Council to adopt such a scheme only under such conditions as are set out here.

The Review Committee recommends that each community should be allocated a community fund to be distributed annually by each Community Committee for local purposes as defined by Council. The amount of each community fund should be determined by a **per capita** formula which recognizes the greater needs of particular communities. This "greater funds for greater needs" formula should be approved by Council on the basis of recommendation of Executive Committee.

The needs formula adopted by Council should be designed to ensure that those communities deemed to have greater than average needs would receive a community fund proportionately larger than those with lower than average need. Need should be determined on the basis of generally accepted socio-economic indicators or a more complex test combining economic, social, and physical measurements.

The needs formula should then be used to allocate monies from a city-wide 'local service pool' to individual community funds. The pool represents those monies set aside annually by Council for purposes of local services, programs and facilities, from which Community Committees may select according to their individual priorities. The amount of the local pool and the community fund available to each community must be determined by Council at least forty-five days prior to adoption of the City budget.

Once each community fund is established, the Community Committees would establish and adopt a community budget. In this budget, the Community Committee may allocate funds for any of the following forms of expenditures:

- Community Committee and office operations
- local planning and programming
- neighbourhood improvement programming and projects
- local leisure and recreation programmes and facilities
- local library educational and cultural programmes and facilities
- local social services and community outreach services
- resident participation programmes
- community relations policing and neighbourhood security services
- residential street signage and traffic controls
- grants to local organizations
- any other service, programme, or facility that Council may deem to be of a "local" character.

Community budgets must be adopted no later than thirty days after adoption of the City budget.

Each Community Committee should be required to report to Council annually on the manner by which it expended its community funds within and for the benefit of those sub-areas or neighbourhoods, and those groups of residents within the community area, with greater needs. Executive Committee will monitor and review the use of Community Committee authority to ensure that city-wide minimal standards are not compromised. Executive Committee will also review community budgets and expenditures to ensure Community Committee compliance with its requirements, compatibility with the City budget, and proper implementation by the civic administration. While policy and expenditure decisions will be made by Community Committee, implementation of those decisions will be provided by and through the City's central bureaucracy.

Council and Executive Committee will also ensure that Community Committees will not unduly interfere with or hinder the orderly administration of the City by employees and officials of the City. In the implementation of this local budgeting and expenditure system therefore, Community Committees must work within very specific limitations. They are:

- establish capital and operating budgets and expend monies only in accordance with Council policies;
- hire, dismiss, and deploy personnel only on short term contract maximum of one year) and in accordance with any collective agreements, personnel practices, and policies of Council;
- only expend monies in such a way that Council is not committed, without its approval, to spend money on capital works in the next budget year;
- supplement or redeploy the civic workforce within the community only through appropriate administrative officials of the City as determined by Executive Committee;
- not permit service levels to fall below minimum standards as may be determined by Council.

Executive Committee will monitor the performance of the Community Committees on these matters and take corrective measures as required.

Recommendation 16

The Review Committee recommends that the number of Community Committees remain at six, and that the number of wards and the number of Councillors be reduced to twenty-four.

The Committee further recommends that the boundaries and composition of both the Community Committees and the wards be adjusted where practical to provide: acceptable equality in population per representative, greater

mutuality of interests and basis for cooperation among wards within Community Committees, and a lessening of parochial identifications dating from the pre-Unity period. We suggest that new ward boundaries be determined on the basis of a collection of recognizable neighbourhoods with mutual interests and priorities. We also suggest that the boundaries of Community Committee areas, as composed of mutual-interest wards, be determined on the basis of similarity of interest and other political criteria, rather than being patterned on the administratively-convenient public works district scheme.

Recommendation 17

The Review Committee recommends that electors use a preferential ballot to elect their Councillors and the Mayor.

Recommendation 18

The Review Committee recommends that the Mayor should continue to be elected at large throughout the City by the residents of Winnipeg.

Recommendation 19

A majority of the Review Committee recommends that City Councillors continue to be elected in individual single-member wards.

Recommendation 20

The Review Committee recommends that **The Local Authorities Election Act** be amended to permit Municipal Councils to pass by-laws regulating election expenses and requiring the disclosure of contributions and the reporting of campaign expenditures.

Recommendation 21

The Review Committee recommends that eligibility to vote in elections for the Mayor and Councillors of the City of Winnipeg be based on six-months residency in the City, attainment of the age of 18 and Canadian citizenship.

Recommendation 22

The Review Committee recommends that City Council be authorized to establish the administrative structure of the City by by-law upon recommendation of the Executive Committee.

Current provisions in the Act prescribing specific duties and responsibilities of senior administrators should be deleted.

Recommendation 23

The Review Committee recommends that section 47 of the Act be amended to read:

The council may by by-law delegate to any of its employees any of its duties or powers respecting the administration of the city provided for under this or any other Act.

CITY PLANNING AND ENVIRONMENT

The Review Committee believes that the planning objectives of both the City and the Province can be better served by substantially amending Part XX of the Act, titled "Environment." In the following pages we recommend changes with respect to the Winnipeg City Plan, Special Area Plans, Local Plans, development control, zoning processes, environmental impact reviews, and municipal powers over waterways. Furthermore, the Committee calls for the establishment of a new corporation to address the special issue of Winnipeg's rivers and streams.

In proposing amendments to Part XX, we place great emphasis on related changes in the parts of the Act which prescribe the political organization of the City. Planning is one manifestation of the political process. Strengthened Council leadership, improved executive organization, visible accountability for political decisions, clarification of the roles and powers of both City Council and the Provincial Government, improvements in public hearing and due process provisions, decentralization of authority

and decision-making, and improved and more effective resident involvement—all are crucial to improved planning in Winnipeg. Our planning recommendations can best be understood and judged, therefore, within the context of our recommendations on provincial-municipal relations (Recommendations 1 to 7), political and administrative organization (Recommendations 8 to 23), inter-municipal relations (Recommendations 40 to 45), and resident participation (Recommendations 46 to 59).

The Review Committee's recommendations in this section comprise an inter-related group of rather detailed proposals. We urge a thorough and comprehensive consideration of the complex connections among the separate items.

Recommendation 24

The Review Committee recommends that sections 569 and following of the Act be amended to provide a new title for the "Greater Winnipeg Development Plan," and expansion of the Plan's scope and content.

The Greater Winnipeg Development Plan now commonly known as "Plan Winnipeg" should be re-formed as the Winnipeg City Plan.

The Review Committee recommends that the definition of the Winnipeg City Plan be: "a plan for the entire area within the boundaries of the City of Winnipeg, consisting of policies, general land use designations, and proposals for land use, infrastructure, transportation, social and economic development, environmental management, and other related services and measures, and analysis of financial requirements, Council commitments, and strategies for the implementation of the Plan, with respect to the overall urban area, community areas, special areas, and/or wards of the city," and that this definition replace the present section 569(f).

Recommendation 25

The Review Committee recommends that the Act be amended to provide the following:

City Council may review the existing City Plan and prepare amendments to the Winnipeg City Plan By-Law at any time. This right notwithstanding, Executive Committee should be required to submit to City Council at least annually its recommendations for changes, or for no changes, in the City Plan.

Council should be required to advise and consult with the Minister responsible on any proposed amendments to the City Plan upon first reading. The Minister should inform the Council in writing within 60 days of notification of first reading of any Provincial comments, concerns, or conditions of approval with respect to the proposed amendment(s). Public hearing(s) on the amendments would not commence prior to the Minister's response to City Council. Should the Minister not inform City Council of the Government's comments, concerns, or conditions within 60 days of notification, City Council would proceed to public hearing(s), second reading, and third reading of amendments to the Winnipeg City Plan without the approval of the Minister.

In the event that the Minister has informed Council of the Province's comments, concerns, or conditions of approval within the time specified, City Council would proceed immediately upon proper notice to public hearings. After the conclusion of public hearings and preparation of revisions and amendments, City Council would notify the Minister of second reading and request a formal statement of the Minister's comments, concerns, and/or conditions of approval. City Council should provide at least 60 days between second and third readings for receipt of the Minister's statement.

The Minister would have 60 days after notification of City Council's third reading of an amendment to the City Plan By-Law to: a) approve the amendment, b) reject it, or c)

substitute a new amendment in place of that given third reading by City Council.

In the latter case, the Minister should inform City Council of the Government's intention to impose a substitute amendment. In this event, the Minister would be obliged to follow the same City of Winnipeg Act requirements as apply to the City with respect to notification, consultation, advertising, and public hearings. Upon imposition by the Minister, such an amendment would be clearly designated as a "Province of Manitoba Amendment to the Winnipeg City Plan By-law".

The Minister should have the right to appoint a representative to participate fully, including presenting evidence and asking questions, at all public hearings on amendments to the Winnipeg City Plan.

Within one year of the promulgation of this amendment, but no later than January 1, 1988, the Lieutenant-Governor-in-Council must transmit to the City Council a document containing Provincial Land Use and Development Policies for the City of Winnipeg and the Winnipeg Region. Should this document be transmitted to City Council later than one year from promulgation of this amendment or January 1, 1988, and until such time as Cabinet transmits the document to City Council, City Council may make any and all amendments to the Winnipeg City Plan without the approval of the Minister.

The City Plan must be consistent with the official Provincial Land Use and Development Policies for the City of Winnipeg and the Winnipeg Region. City Council would therefore be required to amend the City Plan to bring the Plan forthwith into conformity with these policies. Should City Council not amend the Plan to the Minister's satisfaction, the Minister may amend the City Plan by imposing Province of Manitoba Amendments on the Winnipeg City Plan By-law.

The Government may also initiate a Province of Manitoba Amendment to the Winnipeg City Plan at any time. In this event, the Provincial Government would be obliged to follow the same notice and hearing procedures as above, at the Province's expense. The Government must also provide the City with the same rights to participate at its hearings as the Minister enjoys at the City's hearings.

Reference in the Act to forwarding of Plan amendments to the Municipal Board for hearing, report, and recommendation should be deleted.

All other procedural and due process provisions in the Act relative to the City Plan should be retained.

Recommendation 26

The Review Committee recommends that the Act be amended to make provision for the adoption of Special Area Plans. This amendment should provide that City Council, and not Community Committees, be authorized to initiate and adopt plans for special areas, as defined and designated by Council. "Special areas" should be defined as those districts which, due to significance derived from their unique character or from their importance to the city as a whole, at present or in the future, require City Council's planning decision. The character and importance of a special area would be recognized in a Special Area Plan enacted by Council, upon the recommendation of Executive Committee.

Recommendation 27

The Review Committee recommends that sections 579 to 597 of the Act be amended and replaced by new sections on "Local Plans". All references to "Community Plans" and "Action Area Plans" should be deleted.

A Local Plan should be defined to include, but not be limited to:

—A demonstration that the content of the Local Plan is consistent with the Winnipeg City Plan and any Special Area Plans in effect;

- A detailed policy and land use designations for all lands covered by the Plan;
- Recommendations for draft amendments to the zoning by-law (that is, specific zoning changes) and to other city by-laws as required;
- The integrated programme commitments of the Community Committee and City Council for the implementation of the Local Plan;
- The specific financial and other requirements for Plan implementation;
- The detailed budgetary intentions of the Community Committee;
- An implementation strategy and schedule.

Local Plans should be adopted by resolution of a Community Committee for any area of any size within a Community, as the Community Committee may determine. Where a Local Plan area includes lands in more than one community, the Community Committees having jurisdiction would be required to concur on the scope and content of the Local Plan.

Recommendation 28

The Review Committee recommends that the Act be amended to provide that a Development Control Area Designation By-law may be enacted by City Council for any area in the city, and not solely for those areas located in a community "with respect to which there is an approved community plan" [section 626(1)].

Should such a development control by-law be passed, however, a Special Area Plan must be prepared and adopted for that area by Council within six months. Until such a Special Area Plan by-law is passed, no development approvals within the designated area may be granted. Should a Special Area Plan By-law not be adopted within six months, the Development Control Area By-law will cease to be in force and effect.

Recommendation 29

The Review Committee recommends that the Act require the appropriate approving authority to make a specific finding before it approves a rezoning or subdivision application.

The Committee suggests that this finding be that the benefits, to the community, or the City as a whole outweigh the adverse effects on the community and on the City, which would result from approval of the application.

To assist the approving authority in making such a finding, the applicant should be required to submit documentation to that effect, including an Environmental Impact Statement (see Recommendation 35).

Recommendation 30

The Review Committee recommends that any person who seeks an amendment to the zoning by-law (that is, a zoning change or rezoning, but not a text amendment) or an approval to subdivide must make application to the relevant Community Committee.

If the land for which a rezoning application is made lies, either entirely or in part, within a designated special area (see Recommendation 26), the application will be referred to the Executive Committee, or to its designated subcommittee, which will conduct the public hearing. In this case, the relevant Community Committee(s) should be able to present evidence, to examine other parties, to make recommendations, and to require by resolution that an Environmental Impact Assessment be prepared (see Recommendation 35).

Recommendation 31

The Review Committee recommends that provision be made to allow the Executive Committee to order that a new hearing on a zoning or subdivision application be held under two circumstances:

Initiation by a Private Party

Any person who appeared as an interested party at the original Community Committee hearing may apply within 15 days to the Executive Committee to request a new hearing. The application must be in writing and may also contain a statutory declaration concerning allegations of facts.

Having received an application, the Executive Committee may order a new hearing if it finds:

(a) That there are new facts available that were not heard at the original hearing that are important for the disposition of the case—in more legal terms, that there is available new relevant evidence that so changes the situation as to call for a new hearing; or

(b) That the Community Committee conducted the hearing in such an unfair or biased way that the person applying for a new hearing was placed in a prejudiced position—in more legal terms, that the Community Committee denied natural justice or breached its duty of fairness to the person; or

(c) That the decision of the Community Committee is contrary to the City Plan, Special Area Plan, Local Plan, Zoning By-law, or policy of Council; or

(d) That the effect of the decision of the Community Committee is of such city-wide significance as ultimately to require a decision by Council.

After receiving the written application, the Executive Committee must send copies of the application to all interested parties who made representations to the Community Committee, and allow for written argument and/or statutory declarations to be submitted by those parties within 15 days. After receipt of these arguments and/or statutory declarations, the Executive Committee must send copies of them to the applicant and provide the applicant with a further 15 days to respond in writing. The Executive Committee may hold a public hearing to hear evidence and argument, but it need not do so.

The Executive Committee will decide within 15 days of the public hearing (if held) or the expiry of the 15 day period allowed for the applicant to respond whether there will be another hearing and issue an order to that effect. Depending on whether a Local Plan is in effect, the Executive Committee's order will indicate whether the Community Committee or the Executive Committee or its designated subcommittee will hold the new hearing (see Recommendation 32).

Initiation by Executive Committee

The Executive Committee may, of its own motion, order a new hearing only on the basis of ground (c) or (d) above. The Executive Committee must take such action within 20 days of the receipt of the decision of the Community Committee.

Recommendation 32

The Review Committee recommends that the Act prescribe the following two sequences if the Executive Committee decides that a new hearing is necessary.

If a Local Plan is in effect the new hearing will be held by the Community Committee. If there is no Local Plan in effect, then the Executive Committee or its designated subcommittee will hold the new hearing.

Recommendation 33

The Review Committee recommends that the Act be amended to include criteria to be used to determine what constitutes a zoning change and what constitutes a zoning variation.

The Review Committee further recommends that the Province, in consultation with the City, establish a deadline for the City to amalgamate all zoning by-laws into one by-law.

Recommendation 34

The Review Committee recommends that the Act be amended to strengthen the requirements for informing the public, prior to public hearings, of applications for rezonings, subdivisions, conditional uses, zoning variations, and other development approvals.

Recommendation 35

The Review Committee recommends that the Act require that any applicant for a zoning change, subdivision approval, conditional use, development agreement, or demolition permit, file an Environmental Impact Statement as part of the permanent application record, available for inspection prior to any public hearings.

This Environmental Impact Statement (EIS) must specify the nature and magnitude of all negative and positive impacts on the physical, social, and economic environment that are, in the applicant's judgment, likely to result from the proposed change. In addition, the applicant must state the measures to be undertaken to mitigate and/or compensate for negative impacts, as well as to enhance and/or maximize positive benefits of the proposed project.

The Act should require that an EIS be submitted by all applicants, whether they be private, non-profit, or governmental. In the case of a municipal public work, the Executive Committee should be responsible for submission of an Environmental Impact Statement for that work. This statement must be transmitted to Council and each Community Committee at least three months prior to commencement of work.

Either prior to, or following, a public hearing or meeting on an application for approval, one-third or more of the members of the hearing and approving body (that is, Community Committee, Executive Committee, or City Council, as the case may be) may require that a full Environmental Impact Assessment (EIA) be prepared and submitted by the civic administration. The EIA must be available to all Councillors and other parties-at-interest at least 30 days before a decision on the application may be made.

In the case of a municipal public work, at least one-third of the members of a Community Committee whose area may be affected by that work may require that an EIA be prepared. In that event, the EIA should be prepared independently of the civic administration by competent professionals chosen by a Select Committee of City Council established by the Presiding Officer for that purpose.

Guidelines and checklists for the preparation of Environmental Impact Statements and Environmental Impact Assessments should be prepared by Executive Committee and approved by City Council. These documents should be made available to all applicants, Community Committees, Councillors, and other parties-at-interest that request them.

Additional public hearings on an EIA may be held at the discretion of the designated approving authority.

The adequacy of either an EIS or an EIA would not be reviewable by the Courts.

Recommendation 36

The Review Committee recommends that the Federal, Provincial and Municipal governments review and rationalize their respective powers over rivers and streams within the City of Winnipeg and the Winnipeg region.

We further recommend that a Provincial-Municipal co-ordination mechanism be put in place to provide greater efficiency and effectiveness in decision-making and administration of waterway regulations.

Recommendation 37

The Review Committee recommends that the powers of the City Council over rivers, streams, riverbanks, and river-related lands within the boundaries of the City be substantially increased.

Recommendation 38

The Review Committee recommends that the Provincial Government, in cooperation with the City, establish a Winnipeg Rivers Corporation. The Corporation should be established by special act of the Legislature, and referenced as required in The City of Winnipeg Act.

The mandate of the Rivers Corporation should be to provide for the improved planning, use, development, conservation, and management of waterways, rivers, waterfronts, riverbanks, and other related areas within the City of Winnipeg and the Winnipeg region.

The general purpose of the Corporation's activities should be to ensure that the quality, character, and contribution of Winnipeg's waterways, waterfronts, and related lands are preserved and enhanced for present and future generations.

Recommendation 39

The Review Committee recommends that the City of Winnipeg and the Province of Manitoba, together with appropriate municipalities in the extended Winnipeg region, jointly establish a Regional Environmental Advisory Panel. As its purposes and functions, the Panel should:

- 1) Review the adequacy of environmental evidence, guidelines, procedures, standards, and management practices of the participating members, and make recommendations thereon regarding improvement and change to the member governments;
- 2) Make recommendations on environmental policies, programs, plans and legislation for consideration of the member governments;
- 3) Prepare and/or review environmental impact assessments of major public or private projects or programs of regional environmental significance, and submit its reviews and recommendations to the appropriate governments and agencies charged with approval authority;
- 4) Conduct public information and education programs, and public hearings as appropriate, on regional environmental issues;
- 5) Publish reports and other materials related to its purposes and activities; and
- 6) Undertake other purposes and functions as the members may determine.

THE CITY AND ITS NEIGHBOURS

A number of fundamental and difficult regional issues have occupied a considerable portion of the Committee's time and energy. These basic issues are the effectiveness and desirability of what is known as the Winnipeg Additional Zone, the appropriateness of the current boundaries or geographical limits of the City of Winnipeg, the utility and purpose of future mechanisms for cooperation between the City and its neighbouring rural municipalities, and the resolution of a number of inter-municipal grievances and continuing problems that adversely affect their relations.

The Committee resolved early in its deliberations to employ a special process not only to attempt to reach our own conclusions on these thorny issues, but also to achieve as much of a consensus as possible on solutions to those problems among the City, the rural municipalities and the Province. Over a year's time, numerous meetings, consultations, and reviews were conducted with all these parties.

As a result, the Committee believes that general agreement has been reached on most of the basic items, such as the future of the Additional Zone, principles for boundary adjustment, City acquisition of land outside the City, the City's adherence to the approval requirements of other municipalities, and City payments of full grants in lieu of property taxes to other municipalities. Some disagreements remain, especially with respect to specific boundary changes.

Recommendation 40

The Review Committee recommends that the "Winnipeg Additional Zone" be abolished. All statutory references to the Additional Zone should be deleted and references to other municipalities in the Winnipeg region should be appropriately modified consistent with the Committee's other recommendations in this Report and in accordance with subsequent amendments made to the Act.

Recommendation 41

The Review Committee recommends that the Act establish principles or guidelines to be used in making boundary adjustments between the City and adjacent rural municipalities. This section should specifically oblige the Province to make boundary adjustments as required to ensure future maintenance of an urban development standard within the City's boundaries and a rural standard and lifestyle outside the City's boundaries.

Recommendation 42

The Review Committee recommends that the City of Winnipeg and the rural municipalities and/or planning districts within the Winnipeg region consider establishing a formal negotiation, planning, consultation, and advisory organization. For purposes of this recommendation, this organization is entitled the Association of Winnipeg Region Municipalities. Any needed amendments to **The City of Winnipeg Act** and/or **The Planning Act** could be made once the parties agree to establish the organization.

The geographical scope of activities of the Association would be the Winnipeg region. While not precisely defined at this time, the region should certainly include all City of Winnipeg lands outside Plan Winnipeg's established urban limit line and all rural municipality lands within perhaps thirty kilometres of the City of Winnipeg boundaries.

Most importantly, the region should also be defined as including a number of corridors—transportation, development, conservation, river, utility, and other regionally significant corridors—that penetrate either inside the City's urban limit line or outside the 30-kilometre line. For planning and study purposes, the "region" may otherwise be identified as the "Winnipeg commutershed," or the "Winnipeg-centred region," or the "Manitoba capital district," or other appropriate terminology.

With unanimous agreement, the participating parties may revise the Association's geographical scope and functions.

Recommendation 43

The Review Committee recommends that City Council be authorized to acquire or dispose of land in other municipalities by purchase, sale, exchange, donation, lease, mortgage, or other means, at its discretion [section 147(1)]. Further to its acquisition of property, City Council would be required to adhere to all requirements of the host municipality and Province as to land use and environmental approvals (see Recommendation 44).

The Review Committee also suggests that the City be authorized to expropriate land in other municipalities within the Winnipeg region under the terms and conditions of **The Expropriation Act** (section 146, 149). Prior to initiation of expropriation proceedings, the City should be required to refer the matter to the Association of Winnipeg Region Municipalities for its comment and recommendation to the Provincial Government.

Recommendation 44

The Review Committee recommends that the City be obliged to make such applications as are required for development plan amendments, zoning approvals, development agreements, and any other needed approvals to any municipality holding jurisdiction over the use, zoning, development or redevelopment of City-owned lands outside its boundaries. In other words, the City must conform with all public hearing and other approval requirements of another municipality as provided in its by-laws, **The Municipal Act**, **The Planning Act**, or other relevant statutes.

Prior to second reading and a public hearing, the City should forward, and the municipality should refer, all such applications to the Association of Winnipeg Region Municipalities for review and recommendation.

Recommendation 45

The Review Committee recommends that Section 659 of the City of **The City of Winnipeg Act** be amended to require the City to pay a grant in lieu of property taxes for each land parcel it owns or holds in trust in another municipality. The Committee recommends that this same principle be applied to the Province in its grants-in-lieu to the City.

The section should be further amended to provide that the grant paid should be equal to the full real property tax that would normally be payable to the municipality.

Finally, the Review Committee, cognizant of the potentially significant financial impacts on both the City and the host municipalities or local government districts, suggests that a study of the implications of this change be undertaken and that steps be taken to provide a smooth transition to full grants-in-lieu. This study should also include a consideration of specific exemptions to the principles of full grants-in-lieu with respect to City-owned parkland and the Greater Winnipeg Water District Railway lands located in rural municipalities.

THE CITY AND ITS RESIDENTS

The first prerequisite of resident involvement is information. As a first step the Review Committee makes recommendations designed to improve the flow of information from the City to its residents. We call for a report to residents on the City's statutory obligations, the adoption of an access to information by-law, the provision of municipal information to residents and the implementation of a records management system.

The second aspect of the Committee's recommendations deal with the controversial and innovative sections of the Act which provide for a formal institutionalization of resident involvement through the creation of Residents' Advisory Groups (RAGs).

The relationship of the RAGs to the elected Councillors is not spelled out in the Act. It has been left up to each Community Committee and to the members of the RAG.

The Committee's recommendations suggest that the Act should require the City to deliberate on the issue of resident involvement, and to find ways of involving residents between elections. The Committee believes that the Act should not pick one method of resident involvement as against another; the method should be developed by Council itself. The Committee comes to the conclusion that Council itself should within three years decide whether RAGs should be kept. The Committee makes some recommendations that would enhance the involvement of residents and help RAGs perform their current functions in a more effective manner.

The Committee deals particularly with the rights of the Francophone community of Winnipeg through three recommendations that would provide for the provision of services in both official languages in certain parts of Winnipeg.

Finally, the Committee recommends the appointment by City Council of a City of Winnipeg Ombudsman who would perform, in addition to the normal role of investigating and conciliating residents' complaints about governmental treatment, other tasks relating to resident involvement, monitoring the City's performance of its statutory obligations, and providing an appeal on matters relating to access to information.

Recommendation 46

The Review Committee recommends that the Act require the Executive Committee to submit a statement as part of the Annual Report on the fulfillment of four of Council's statutory obligations (see Recommendation 8):

- The annual declaration on amendments to the Winnipeg City Plan (see Recommendation 25);
- Adoption and operation of an access to information by-law (see Recommendation 47);
- Involvement of residents pursuant to Section 23 as amended (see Recommendation 51); and
- Communication with residents in both official languages (see Recommendation 55).

Recommendation 47

The Review Committee recommends that the City of Winnipeg Act require City Council to adopt an access to information by-law which would establish the means and procedures by which the City will provide for the public's right to information.

The Act should require that this by-law include:

- 1) A clear specification of the limitations and exemptions placed on the public's right to access municipal information; and
- 2) The procedures for review by the City Ombudsman of the City's decision to deny access to specific information.

Recommendation 48

The Review Committee recommends that the City's access to information by-law provide the broadest practical access to the public and the most effective and efficient process of appeals from decisions to deny access.

In general, exemptions should be few and precisely defined, and the burden of proof ought to be placed on those wishing to deny the request. The by-law should also contain provision for review of performance under the legislation and Council's access policy.

In the event of denial of a request for information, the appeal mechanism in the first instance should be a simple, expeditious and inexpensive procedure readily understood and available to all citizens. We recommend, therefore, the appointment of a single official known as the City Ombudsman (see Recommendation 59), removed from the regular City departments, who would review denials of access to City documents upon request.

Recommendation 49

The Review Committee recommends that the City consider additional and improved techniques by which information on municipal activities and programmes can be publicized and provided to residents.

Recommendation 50

The Review Committee recommends that the Act be amended by replacing section 658(1) through (7) with provisions prescribing definitions of terms; the authority and terms of reference of a City Records Committee; the appointment and duties of a City Archivist; conditions regarding the destruction and copying of records; and terms of reference relating to access to information and records (see Recommendation 47).

The Review Committee recommends that the Act require that no record or information created or held by any department, commission, committee or agency of the City may be destroyed or removed by any person outside

the mechanisms and means established by a City Records Committee, without knowledge of the City Archivist and the approval of the City Records Committee.

The Review Committee further recommends that the Act should require that the Executive Committee establish a City Records Committee to be responsible for and report on the management and condition of records keeping and information handling, and to determine suitable retention and disposal authority and procedures for all city records. The City Archivist should be the chairperson of the City Records Committee.

Recommendation 51

The Review Committee recommends that section 23 of The City of Winnipeg Act be retained with amendments imposing on Council, as well as Community Committees, the obligation to develop and implement techniques of resident involvement.

Recommendation 52

The Review Committee recommends that the Act require that Council either decide to continue Residents' Advisory Groups or to establish a new mechanism to facilitate resident involvement, by January 1989.

The Review Committee recommends that section 21 of the Act, which establishes Residents' Advisory Groups, lapse in January 1989. The Committee further recommends that if, before January 1989, Council decides to involve residents in a different way pursuant to section 23 as amended, section 21 should be deleted from the Act.

Recommendation 53

The Review Committee recommends that until Council establishes and codifies its own means of institutionalizing resident involvement, the Residents' Advisory Groups should be continued and that their governing references in the Act should be retained. Until such time as Council by resolution replaces them, Residents' Advisory Groups should be afforded improved resources and support by Council.

Recommendation 54

The Review Committee recommends that the City and the Province consider some further suggestions concerning the involvement of residents between elections. The eventual mechanism for promoting resident involvement will be chosen by Council (see Recommendation 52); our suggestions are applicable to virtually any choice, and should be applied to Residents' Advisory Groups in the interim period.

We think that, at a minimum, groups of residents as Council or Community Committees may select should be given the following support by Council:

- members of these groups should always be entitled to receive an adequate number of photocopies of the agenda of meetings of the Community Committee and of Council and copies of any relevant City reports at the same time as the local Councillors get them;
- any group with over 50 people entitled to vote by the payment of a fee should be entitled to a minimum of \$1,000 in municipal resources; in addition the Community Committee should continue on a quarterly basis to match the nominal membership fee levied by the group;
- to safeguard the use of public funds, expenditures should be countersigned by a person designated by the Community Committee;
- the groups should have the right to use the community offices for meetings and some designated resources from the community offices, including secretarial help; and
- the Council should provide facilities and resources for an annual conference of resident groups.

We urge the Provincial Government to recognize that it has a duty to assess its creation and to find innovative means to assist the City in identifying and supporting new forms of resident involvement.

Recommendation 55

The Review Committee recommends that all of Part III be rewritten to clarify its intent and to define precisely what is required of the City under the current legislation. We propose that the three levels of service the City is required to provide in French be specified and that definitions of "communication," "the city's central offices" and other important terms be included.

The Committee further recommends that the Act specifically require the City to provide emergency telephone service in life-threatening and personal danger situations in both official languages.

Recommendation 56

The Review Committee recommends that the bilingual character of a portion of the district of St. Norbert be recognized in the Act by including an area to be designated "Historic St. Norbert" in the portion of the City entitled to receive official documents in both official languages, and entitled to street and traffic signs in both languages.

Recommendation 57

The Review Committee recommends that Part III of the Act should be strictly enforced through the Committee's proposed mechanisms of the City of Winnipeg Ombudsman and the Municipal Tribunal (see Recommendations 59 and 61).

Recommendation 58

The Review Committee recommends that the provision allowing for referenda (section 112.1) be deleted from the Act to reinforce the principle that elected representatives should make decisions and be held accountable for the results.

Recommendation 59

The Review Committee recommends that the Act establish a statutory officer to be called The City of Winnipeg Ombudsman. The City Ombudsman should be responsible for:

- monitoring and reporting at least annually to Council and to the public on the City's fulfillment of its statutory obligations including:
 - Annual declaration on amendments to the Winnipeg City Plan (see Recommendation 25);
 - Adoption and operation of an access to information by-law (see Recommendation 47);
 - Involvement of residents pursuant to Section 23 as amended (see Recommendation 51);
 - Communication with residents in both official languages (see Recommendation 55);
 - at his or her discretion, any other matters which the Council is required by law to do.
- providing the first level of review in access to information matters through the operation of the City's Access to Information By-law (or procedures specifically laid out in the Act);
- consulting with politicians, civil servants and residents in developing methods of involving residents pursuant to section 23 as amended (see Recommendation 51);
- investigating, conciliating and/or mediating complaints from residents about the City's treatment of them and their access to, and provision of, municipal information and services; and to report at any time but at least annually to Council and to the public on the Ombudsman's activities in this regard.

The Ombudsman's independence from political pressures should be protected by requiring appointment by Council for five years. The Ombudsman may only be dismissed by

two-thirds of Council present (with proper notice of motion) and only for cause. Council should provide the Ombudsman with a reasonable budget to fulfill the requirements of the position. There should be a recognized right for the Ombudsman to report to Council when she or he feels that budgetary restrictions will seriously impair her or his effectiveness in fulfilling the duties of the office.

The Ombudsman should have the right to refer complaints to the Municipal Tribunal and to appear before the Tribunal or before the courts.

ENFORCEMENT

In this part, the Review Committee addresses the difficult problem of ensuring that the City lives up to its responsibilities as established by **The City of Winnipeg Act**.

We have alluded to this problem in various earlier sections of this Report. We have indicated that the ballot box is, in our opinion, the best means of enforcing the political will of the residents of Winnipeg; that we believe electors require a clear and accountable structure in order to use the ballot box well; and that publicity is often the most powerful tool available to the ordinary resident for enforcing his or her rights.

The first mechanism is found in the annual report required from the Executive Committee and Council. The report, pursuant to Recommendation 46, must contain a statement on four of the Council's statutory obligations and the action taken during the year to fulfill those obligations. The statement furnishes the resident with two useful pieces of information: a description of the Council's obligations and a description of Council's view of those obligations.

Using this information, the ordinary resident can turn initially to his or her Councillor or Community Committee for redress.

The second mechanism is the Ombudsman's report to Council and to the residents of Winnipeg on how the City has fulfilled its statutory obligations (see Recommendation 59). This report by an independent statutory officer will provide the counterpoint to the report of the Executive Committee and Council.

The third mechanism is the case work function of the Ombudsman's office. The Ombudsman would perform the conciliation that is often needed between the aggrieved resident and the administrator. The Ombudsman could not order any politician or civic administrator to do something, but could use the powers of persuasion or publicity (see Recommendation 59).

Recommendation 60

The Review Committee urges the Minister to monitor the performance of the City under the Act, and, the City failing to comply with the intent of the Act or neglecting its statutory obligations, the Executive Council should exercise its authority to reclaim powers previously granted to the City, subject to review by the Legislature at a subsequent session. The Act should be specifically amended to provide for this sanction, and to put the City on notice as to the Province's willingness, and indeed its legal responsibility, to move decisively as required.

Recommendation 61

The Review Committee recommends that the Act establish a Municipal Tribunal having the power to hear applications by any person or group to determine the rights of that person under **The City of Winnipeg Act** and/or under the administration of the Act. In legal terms, the Tribunal would have the power to hear applications alleging that the City had denied or exceeded its jurisdiction, or had denied a person natural justice, or had not complied with statutory requirements; it would also hear applications requesting an interpretation or declaration of rights under the Act.

Although a Court would be able to review the decisions of the Municipal Tribunal to see if they were made within the jurisdiction of the Tribunal and without denial of natural justice, there should be no appeal from a decision of the Municipal Tribunal on any other grounds.

Decisions of the Tribunal would be filed in the Court of Queen's Bench as enforceable judgements.

The chairperson should be appointed by the Lieutenant-Governor-in Council on the recommendation of the Standing Committee of the Assembly on Privileges and Elections (or another all-party committee of the Legislature) for a five-year term, and could be removed only by a vote of two-thirds of the members of the Legislative Assembly present and voting.

Other members of the Tribunal should be appointed on a part-time basis with staggered three-year terms. City Council would have the right to appoint one-third of the part-time members, upon the recommendation of a nominating committee of Councillors selected by the Presiding Officer.

The presence of at least three members of the Tribunal, including at least one City appointee, should be required to conduct a hearing. Initially there should only be three members on the Tribunal, with others added as required.

The Tribunal should have the right, upon giving proper public notice, to treat a complaint from an individual as raising an issue deserving of a public enquiry and to hold such public enquiries as it deems fit.

The Tribunal should have the right to dismiss, without hearing, any complaints made to it that are in its opinion frivolous, vexatious, or without merit.

All references to the quasi-judicial functions of the Municipal Board in the Act should be deleted and the functions transferred to the Municipal Tribunal.

The Committee further recommends that if the Province does not establish a Municipal Tribunal then it should, through the intervention of the Attorney-General, take action to see that the Act is enforced through the courts at the Province's expense.

ADDITIONAL RECOMMENDATIONS

This section contains recommendations concerning amendments to the Act which do not arise in the context of the preceding sections. The first part entails recommendations to "clean up" the Act and make it more understandable; the second with relations between the City and school divisions.

Recommendation 62

The Review Committee recommends that the Provincial Government consult with the City of Winnipeg to consider means to render **The City of Winnipeg Act** more understandable to the average person.

The Review Committee further recommends that the Province provide a detailed, workable and current index for **The City of Winnipeg Act**.

The Review Committee further recommends that the City consider producing a guide that would especially explain those parts of the Act setting out the City's political structure, Council's powers and responsibilities, and the rights of residents.

Recommendation 63

The Review Committee recommends that the Provincial Government consult with the City of Winnipeg to consider the legal implications of the way **The City of Winnipeg Act** is written in order to ensure that the manner by which powers are granted to the City does not unduly restrict the exercise of those powers.

Recommendation 64

The Review Committee recommends that the Provincial Government, in consultation with the City of Winnipeg, reduce the number of sections in the Act that:

- 1) give the Provincial Government, or any member of the Cabinet, power to overrule decisions of the City of Winnipeg;

- 2) require Council to act specifically by passing by-laws; and

- 3) impose unnecessary statutory obligations on Council.

Recommendation 65

The Review Committee recommends that the Attorney-General review the Act and ensure that it conforms to the **Canadian Charter of Rights and Freedoms**.

Recommendation 66

The Review Committee recommends that the Act be amended to delete all sums now specified in various sections, such as license fees, penalties, interest rates, and grants-in-lieu of taxes. In many cases, these sections should be replaced by a statement enabling Council to set such amounts. In other sections, sums should be tied to amounts established elsewhere, such as taxes, assessed value, and actual costs.

Recommendation 67

The Review Committee recommends that if affirmative action is to be addressed by statute, it should only be addressed in a statute applying to all municipal jurisdictions; **The City of Winnipeg Act** should not be singled out for special legislative attention on this topic. The Committee also recommends that the City continue its voluntary efforts to achieve a more representative work force at all levels of the municipal civil service.

Recommendation 68

The Review Committee recommends that sections 524(1) and 524(1.1) which, in effect, allow the City to revoke a licence to practice a trade and provide for an appeal to the same body that revoked the licence, be amended to provide that the Executive Committee have the power to revoke a licence with appeal to the full Council; or, if Council delegates revoking powers to Community Committees, the appeal should be to the Executive Committee.

The Review Committee recommends that section 545(b) of the Act require that the City can neither shut off the supply of utilities, nor charge a lien on property, for failure of a tenant to pay for utilities supplied by the City, unless notice to the owner of the property was given within 30 days of the failure to pay.

Recommendation 69

The Review Committee recommends that no action be taken at this time to bring electoral boundaries within school divisions into conformity with the City's ward or Community Committee boundaries. Consideration of this issue should be addressed, however, after the completion of a school division consolidation study as proposed by the Committee (see Recommendation 70).

Recommendation 70

The Review Committee recommends that the Provincial Government, in consultation with the school divisions and municipalities of the Winnipeg region, initiate a study of the desirability and feasibility of consolidating or unifying the school divisions within the city.

Recommendation 71

The Review Committee recommends that the Provincial Government create a study team of officials from the school divisions, the City of Winnipeg, the Manitoba Department of Education, the Public Schools Finance Board and other Provincial bodies to review and make recommendations for improving the coordination of their policies, plans, and programmes within the City.

IMPLEMENTATION

This section contains two recommendations for implementing all the other recommendations contained in this Report. The Committee believes that the process of implementation is as important as the recommendations themselves, and that many of the recommendations should be phased in over a period of time.

Recommendation 72

The Review Committee recommends that the Provincial Government amend the Act to extend the term of the present Council to October 1987 in order to implement the recommendations contained in this Report.

Recommendation 73

The Review Committee recommends that the changes recommended in this Report be phased in over a period of three years, from 1986 through to 1989.

APPENDIX I

Presentations at Public Hearings

January 11, 2PM, Winnipeg City Hall

Councillor Alan Wade
Mr. Joseph Zuken
Professor Phil Wichern
Mr. Ross Dobson
Mr. George Finkle
Mr. Walter Kucharczyk
Mr. Vere Scott
Councillor Evelynne Reese

January 16, 7PM, East Kildonan/Transcona Community Committee Offices

Mr. Harry Barchuk
Mr. Harold Kelly
(on behalf of a group of Henderson Highway residents)
Mr. S. L. Bellinger
Mr. Peter Gnoinski
Mr. Walter Kucharczyk
Ms. Maggie Ptashnik
(on behalf of the Kildonan Corridor Committee)
Ms. Shirley Timm-Rudolph
Ms. Gail Stapon
Ms. Sonia Cadzow
(on behalf of the East Kildonan/Transcona Residents' Advisory Group)
Ms. Debbie Segal
Mr. Cam Neirnick
Ms. Sylvia Taylor
Mrs. Anne Mills

January 22, 2PM, Winnipeg City Hall

Mr. Mario Jorge Santos
Mr. Corrado Santoro
(on behalf of the Association of Manitoba Archivists)
Mrs. G. J. Lynch
Mr. Wayne Hancock
(on behalf of the Citizens' Union)
Mr. Richard Haugh
Mr. Thomas Johnston
Mrs. Lily Wiklund
(on behalf of the Assiniboine Park/Fort Garry Residents' Advisory Group)

January 23, 7PM, Old St. Boniface City Hall

Councillor Guy Savoie
Ms. Susan Cameron
(On behalf of the Association des Commerçants et Résidents du Vieux Saint-Boniface)
Ms. Claudette Toupin
Mr. David Hall
(On behalf of the St. Boniface/St. Vital Residents' Advisory Group)

January 30, 7PM, St. Boniface/St. Vital Community Committee Office

Mr. David Hall
(on behalf of the St. Boniface/St. Vital Residents' Advisory Group)
Mr. Ross Dobson
Ms. Susan Cameron
(on behalf of the ARC Advisory Council)
Mr. David Hall
(on behalf of the Seine River Home Owners Association and the Seine River Park Study Group)
Councillor Evelynne Reese
Ms. Rosaline Krahn

February 5, 2PM, Winnipeg City Hall

Councillor Evelynne Reese
Mr. George Finkle
Mr. David Blaydon

February 12, 7PM, West St. Paul Council Chamber

Reeve J. C. Balderstone
Ms. Pat Moses
Mr. Mel Didyk
Councillor Arthur Dacombe
Councillor Donald Shaw
Councillor Robert Carter
Councillor Arthur Gobert
Councillor Jack Oatway—R.M. of Rosser

February 19, 7PM, City Centre/Fort Rouge Community Committee Office

Mrs. Dorothy Lynch
Mr. Norm Griffiths
Mr. Alex Titley
Professor Phil Wichern
Councillor Harold Taylor
Ms. Harriet Permut
Mr. John Cordoza

February 26, 2PM, Winnipeg City Hall

Mr. Nels Thibault
Mr. Joseph Zuken
Mr. Bill Burrows
Mrs. Barbara Wescott
(on behalf of the Citizens' Alert Committee)
Ms. Jean Borys
Mr. Tom Shay
(on behalf of the Manitoba Naturalists Society)
Mr. P. F. McKenzie

March 5, 2PM, Winnipeg City Hall

Mr. Morris Kaufman
Mr. Keith Godden
Mr. David C. King
Mr. Squire
(on behalf of the Winnipeg Chamber of Commerce)
Mr. Harry Cohen
Councillor Magnus Eliason

March 5, 7PM, Winnipeg City Hall

Mr. Fred Debrean
Mr. Norman Beattie
Mrs. Helen Kolomaya

March 12—St. James/Assiniboia Community Committee Office

Councillor Jim Ernst
Mrs. Iva Yeo
Ms. Mary Park
Ms. Pat A. Phillips
(on behalf of the St. James-Assiniboia School Division)
Mr. Kenneth Emberley
Mr. Don Smith

March 13, 7PM, Rossbrook House

Sr. Bernadette O'Reilly
Sr. Margaret Hughes
Sr. Johanna Jonker
(on behalf of the Inner City Committee for Rail Relocation)
Mr. Neil McAlpin
Mr. Tony Tavares
(on behalf of the Community Education Development Agency)
Rev. Doug Martindale
Mr. Bob Glendinning
(on behalf of the Intentional Christians Educational Community)
Ms. Cathy Mallet
Mr. Colin Desjarlais
(on behalf of the Urban Indian & Metis Planning Group)
Mr. Pat Mahon
Mr. Lawrence Grisdale
Mr. Cameron Thompson
Ms. Geraldine Halcrow
(on behalf of Eagles Circle)
Mr. Henk deBruyn
(on behalf of The Indian Family Centre)
Ms. Helen Schultes
(on behalf of the Logan Community Development Corporation)
Ms. Dorothy Neufeld
(on behalf of Family Centre)
Mr. Alan Mossbarger
(on behalf of RENEW)
Mr. Jack Eyre
Ms. Anna Tynes
(on behalf of the Anti-Sniff Coalition)
Ms. Brenda Chamorata
Ms. Bernice Marmal
(on behalf of the Winnipeg Library Board)
Mr. Fred Currie
(on behalf of the Parish Community of St. Ignatius)
Mr. Joseph Zuken
Mr. Jim Finley

Ms. Olga Fultz
(on behalf of the Manitoba Anti-Poverty Organization)
Mr. Colin Desjarlais

March 19, 2PM, Winnipeg City Hall

Professor Mario E. Carvalho
(and a group of students)
Mr. Paul Maley
(on behalf of the Manitoba Trucking Association)
Ms. Marlene Amell
(on behalf of the General Council of Winnipeg Community Centres)

March 19, 7PM, Winnipeg City Hall

Mr. George Siamandas
(on behalf of Heritage Winnipeg)
Mr. Paul Moist
(on behalf of the Winnipeg Labour Council)
Ms. Linda Newman
(on behalf of the Coalition on Group Homes)

March 21, 8PM, East St. Paul Council Chambers

Mr. Lloyd Searcy
Ms. Sonja Cadzow
Mrs. Anne Mills
Councillor Don Shaw
Reeve Philip Rebeck

March 26, 7PM, Saint Boniface City Hall

Councillor Guy Savoie
M. Laurent Lamontagne
M. Raymond Hébert
(on behalf of the Collège Universitaire de Saint-Boniface)
M. Marc Boily
(on behalf of Boni Co-Op)
M. Michel Roy
(on behalf of the Conseil Jeunesse Provincial Inc.)
Mdle Diane Dornez-Laxdal
(on behalf of Pluri-elles)
M. Maurice Laberge
(on behalf of The Native Sons of Canada)
M. René Fontaine
(on behalf of the Centre Culturel Franco-Manitobain)
M. Roger Dubois
(on behalf of the Fédération Provinciale des Comités de Parents)
M. Henri Lambert
(on behalf of The Association of Residents of Old St. Boniface)
M. & Mme. Guy Legal
Mme. Marcelle Lemaire

**March 28, 7PM, Assiniboine Park/Fort Garry
Community Committee Offices**

Mr. K. W. Langridge
Mr. Tom Johnston
Ms. Sandra Russell
*(on behalf of the Assiniboine Park/Fort Garry Residents'
Advisory Group)*
Mr. R. Graydon
Ms. M. Mouser
Mrs. Verna Van Roon
Mrs. Jean Fudge
Mr. Cameron
(on behalf of Heritage St. Norbert)
Mr. Tom Shay
(on behalf of the Manitoba Naturalists Society)
Mr. Herb Paige
(on behalf of the Charleswood Homeowners' Association)
Ms. Donna Mae Yeo

**April 2, 7PM, Lord Selkirk/West Kildonan Community
Committee Office**

Mrs. Alice Balsillie
Mr. David Brazer
Mrs. Jean Borys
Mr. Max Saper
*(on behalf of the Lord Selkirk/West Kildonan Residents'
Advisory Group)*
Mr. Michael Gidora
(on behalf of The Labour Election Committee)
Councillor Harry Lazarenko

April 4, 2PM, Winnipeg City Hall

Mr. Val Werier
Mr. David Martin
Mr. Alan Simpson
*(on behalf of The Manitoba League of the
Physically Handicapped Inc.)*
Ms. Ainley Monk
*(on behalf of The Manitoba Federation of the
Visually Handicapped Inc.)*
Ms. M. Bossen
Ms. R. E. Gulak
(on behalf of Handi-Transit users)
M. Real Sabourin
(on behalf of The Société Franco Manitobain)
M. Roger Lafrenière
(on behalf of l'Institut Joseph Dubuc Inc.)
M. Raymond Hébert
*(on behalf of l'Association des Professeurs du Collège
Universitaire)*
Councillor Evelyn Reese

April 4, 7PM, Winnipeg City Hall

Mr. David Matas
*(on behalf of The Manitoba Association for Rights and
Liberties)*
Ms. Liz Coffman
Ms. Penny Mitchell
*(on behalf of The Manitoba Action Committee on the
Status of Women)*
Ms. Susan Cameron

April 9, 2PM, Winnipeg City Hall

Mr. Tim Sale
Mr. Ken Murdock
Mr. Robert Fenton
(on behalf of the Social Planning Council of Winnipeg)
Mr. David Miles
Ms. Doris Young
Mrs. Helen Kolomaya
Ms. Ruth Swan
Mr. Felix Figiel

April 9, 7PM, Winnipeg City Hall

Mr. Ed Thornhill
(on behalf of the Manitoba Association of Seniors)
Councillor Harold MacDonald
Ms. E. Etkin
(on behalf of the Safe Mosquito Abatement Committee)
Mr. Kenneth Emberley

April 11, 2PM, Winnipeg City Hall

Councillor Helen Promislow
Mr. Kent Gerecke
Ms. Judith Flynn
(on behalf of the Manitoba Arts Council)
Mr. Roger Toews
Mr. Brian Coley
(on behalf of the Winnipeg Real Estate Board)
Mr. Kirk Stanley
Ms. Janet Anderson
Mr. Bree
(on behalf of the Manitoba Public Interest Research Group)

April 16, 7PM, Rossbrook House

Mr. Colin Desjarlais
(on behalf of the Urban Indian Metis Planning Group)
Sr. Bernadette O'Reilly
(on behalf of the Inner City Committee for Rail Relocation)
Mr. Greg Selinger
Mr. Doug Martindale
*(on behalf of The Intentional Christians Educational
Community)*
Ms Ruth Pear
*(on behalf of the St. Norbert NDP Constituency
Association)*
Mr. Jack M. Jameson
Mr. Henk de Bruyn
(on behalf of The Indian Family Centre)
Mr. Tim Sale
Sr. Joanna Jonker
Ms. Olga Fultz
(on behalf of The Manitoba Anti-Poverty Organization)
Mr. Dale Missyabit
Mr. Carl Ridd
Mr. Hrubuchek
Mr. Alan Mossbarger
(on behalf of RENEW)
Ms. Helen Schultes
*(on behalf of The Logan Community Development
Corporation)*

April 18, 2PM, Winnipeg City Hall

Ms. Paula Fletcher
Mr. Bill Ross
(on behalf of the Communist Party of Canada)
Mr. Bill Goddard
Mr. Kenneth Emberley
Ms. Dorothy Wise
(on behalf of the Crossroads Resource Group)
Mr. George Marshall
Mr. Ron Zimmerman
Mrs. Theresa Ducharme

**April 23, 2PM, City Centre/Fort Rouge Community
Committee Office**

Mrs. Elizabeth Ballantyne
Mr. Wally Rooke
(on behalf of Riverbankers Inc.)
Mr. Len Van Roon
Mr. Wayne Hancock

April 25, 2PM, Winnipeg City Hall

Ms. Georgia Cordes
(on behalf of the Young Womens Christian Association)
Councillor Bill Neville
Councillor Abe Yanofsky
Mr. & Mrs. Robert Ballantyne
Mr. Sydney Silverman
Ms. Lily Kaplan
(on behalf of the Manitoba Landlords Association)
Councillor Harvey Smith
Mr. Art Jones
Mr. Ken Wong
Mr. Russ Simonite
(on behalf of the Downtown Winnipeg Association)

April 30, 2PM, Winnipeg City Hall

Councillor Harold Taylor
Mr. Bill Rannie
(on behalf of the Wolseley Residents Association)
Mayor William Norrie
Mr. Don Malinowski
Mr. Tim Fedinew
Mr. Farley Cates
Mr. Wade Kastes
(on behalf of the Council of Inner-City Neighbourhoods)
Mr. Fred Zeegil
Ms. Anita McElrea
*(on behalf of the St. James/Assiniboia Residents' Advisory
Group)*
Ms Julie Van De Spiegle

APPENDIX II

Written Briefs Received

The Ad Hoc Handi-Transit Review Committee 1984
 The Age & Opportunity Centre
 l'Association des Commerçants et Résidents du Vieux Saint-Boniface
 M. Austin M. Algée
 The ARC Advisory Council
 The Assiniboine Park/Ft. Garry Residents' Advisory Group
 Mr. & Mrs. Robert Ballantyne
 Mr. Harry Barchuk
 Mr. Norman Beattie
 Mr. S. L. Bellinger
 Mr. Elswood Bole
 Boni Co-op Ltd.
 Mrs. Jean Borys
 Miss Marianne Bossen
 Mr. Richard W. Brundrige
 Mrs. S. A. Cadzow
 The Canadian Pacific Pensioner's Association
 Centre Culturel Franco-Manitobain
 The Charleswood Homeowner's Association
 The Charter of Rights Coalition (Manitoba)
 The Citizens Alert Committee
 The Department of City Planning — Faculty of Architecture, University of Manitoba
 The Coalition on Semi-institutional Homes
 Collège Universitaire de Saint-Boniface
 The Community Education Development Association
 The Concerned Citizens of Saint Ignatius
 Conseil Jeunesse Provincial Inc.
 The Council of Inner City Neighbourhoods
 Mrs. S. A. Crawford
 The Crossroads Resource Group
 Mr. Andrew Currie
 Mr. Ross Dobson
 The Downtown Winnipeg Association
 Ms. Theresa Ducharme
 M. Normand Dupasquier
 Eagle's Circle Junior High School Program
 Mr. H. W. East
 East Kildonan/Transcona Residents' Advisory Group
 Elgin House
 Councillor Magnus Eliason
 Mr. Kenneth Emberley
 The Equal Pay Coalition of Manitoba—
 Manitoba Federation of Labour
 Councillor Jim Ernst
 Mrs. E. Etkin
 Mr. W. John Farquharson
 Mr. & Mrs. Earl Fethers
 Mr. Felix Fiegel
 Mr. Denis C. Fletcher
 Ms. Doris Fontaine
 The Fort Garry Community Career Resource Centre
 The Fort Garry School Division No. 5
 Ms. Jeannette Fraser
 Mrs. E. Jane Fudge
 The General Council of Winnipeg Community Centres
 Mr. Kent Gerecke
 Mr. Peter Gnoinski
 Mr. Richard Goatcher
 Mr. Richard Graydon
 The Grey Nuns
 Mrs. Rose Gulak
 Mr. Douglas R. Gunn
 Mr. D. Hall
 Mr. Wayne Hancock
 Mrs. Gerdur H. Harris
 Harvard Investments Limited

The Harvard Publishing Company
 HELP Program
 Heritage Winnipeg
 Heritage St. Norbert
 Ms. Susan Hicks
 Ms. Violet Hnatyshyn
 Mr. Marshall Hughes
 Indian Family Centre
 The Inner-City Committee for Rail Relocation
 l'Institut Joseph Dubuc Inc.
 The Institute of Urban Studies
 The Intentional Christian Education Community
 Mr. T. D. Irvine
 Mr. David L. Jenkins
 Mr. W. L. Johnson
 Mrs. J. Una Johnstone
 Junior-Seniors of Manitoba Society of Seniors
 Mr. Harold Kelly
 Ms. Marion King
 Mrs. Helen Kolomaya
 Mr. Ray Kozun
 Miss M. L. Kuntzmueller
 Ms. Susan Kuzyk
 M. Maurice Laberge
 Mr. Ronald P. Labossiere
 The Labour Election Committee
 Mr. K. W. Langridge
 Dr. W. C. Lorimer
 Mr. Jeff Lowe
 Mr. & Mrs. R. Lucas
 Mrs. G. J. Lynch
 Councillor Harold MacDonald
 Ms. Jackie Madden
 The Manitoba Action Committee on the Status of Women
 The Manitoba Association of Archivists
 The Manitoba Arts Council
 The Manitoba Association for Rights and Liberties
 The Manitoba Child Care Association
 The Manitoba Committee of the Communist Party of Canada
 The Manitoba Federation of the Visually Handicapped Inc.
 The Manitoba Intercultural Alliance/Forum for the Awareness of the Minority Electorate
 The Manitoba Landlords Association Inc.
 The Manitoba League of the Physically Handicapped Inc.
 The Manitoba Lung Association
 The Manitoba Naturalists Society
 The Manitoba Public Interest Research Group
 The Manitoba Restaurant & Foodservices Association
 The Manitoba Safety Council
 The Manitoba Society of Seniors
 The Manitoba Teachers' Society
 The Manitoba Trucking Association
 The Marymound Family Resource Centre
 Mr. P.F. McKenzie
 Mr. David S. Miles
 Mrs. Annie M. Mills
 Mr. David Milner
 Mr. Marvin Mironchnik
 Councillor Don Mitchelson
 Ms. M. J. Mouser
 Mrs. Maybeth Murrell
 The Native Sons of Canada
 Councillor William Neville
 Mr. G. L. Nicholson
 Ms. Lolita T. Oandasan
 Mrs. Jean Palmer

Mr. Richard G. Palmer
 Pluri-elles
 The Prairie Partnership
 Councillor Helen Promislow
 Reaching out to Everyone in the North End by Worshippers
 Councillor Evelyne Reese
 The Rehabilitation/Respiratory Hospital-Health Sciences
 Centre
 Réseau
 Mr. R. J. Riddell
 Rural Municipality of Ritchot
 Riverbankers Inc.
 Mr. & Mrs. Eli Ross
 Rossbrook House
 The Rural Municipality of Rosser
 The Safe Mosquito Abatement Committee
 Mr. Harvey Sawyer
 Henry Schultz Construction Limited
 Mr. Walter J. Scott
 Mr. L. D. Searcy
 The Seine River Homeowners Association
 The Seine River Park Study Group
 Mr. Norm Settee
 Mr. G. R. Smith
 The Social Planning Council of Winnipeg
 la Société Franco-Manitobaine
 Mr. Wayne Sowden
 The Rural Municipality of Springfield
 Mr. Kirk P. Stanley
 The St. Boniface-St. Vital Residents' Advisory Group
 The St. James-Assiniboia School Division No. 2

The St. James-Assiniboia Residents' Advisory Group
 The St. Vital Shopping Centre Co. Ltd.
 Ms. Ruth Swan
 The Rural Municipality of Taché
 Councillor H. B. Taylor
 M. Rhéal E. Teffaine
 Mr. Carson H. Templeton
 Ms. Pat Thomson
 Mr. Alex H. Titley
 Mr. Roger T. Toews
 The United Fire Fighters of Winnipeg
 The Urban Development Institute Manitoba Division
 The Urban Indian and Métis Planning Group
 Ms. Verna Van Roon
 Ms. Gladys Watson
 Mr. Val Werier
 The Rural Municipality of West St. Paul
 The Weston Community Residents Association
 The Winnipeg Anti-Sniff Coalition
 The Winnipeg Chamber of Commerce
 The Winnipeg Chinatown Development (1981) Corporation
 The Winnipeg Labour Council
 The Winnipeg Real Estate Board
 The Winnipeg School Division No. 1
 The Winnipeg Youth Orchestras Inc.
 The Wolseley Residents Association
 Councillor Abe Yanofsky
 Mr. & Mrs. R. D. Young
 The Young Womens Christian Association of Winnipeg
 Mr. Michael Zaluski

APPENDIX III

RESEARCH PAPERS

The following studies were commissioned by the Review Committee:

Background Paper on Political/Administrative Arrangements in City Government, by S. C. Johanson.

Equalization Formulae, by Lysa Joyal.

The Franchise in Municipal Elections, by Lysa Joyal.

A Discussion of Grants-in-Lieu, by Lysa Joyal.

The Preferential Ballot, by Lysa Joyal.

Municipal Information, by Lysa Joyal.

Discussion Paper on Models of Citizen Participation Applicable to the City of Winnipeg, by W.S. Kubiski.

Revising The City of Winnipeg Act: A Discussion Paper, by Christopher Leo.

Unicity: Strengths, Weaknesses and Remedies, by Christopher Leo.

Review of Part XX, City of Winnipeg Act, by Earl Levin.

An Analysis of Intergovernmental Relations Between the Province of Manitoba and the City of Winnipeg, by David Parker.

"Manitoba Omnibus Spring, 1985 City of Winnipeg". By Criterion Research Corp.

The following "background studies" were prepared under the Student Temporary Employment Program by the Department of Urban Affairs for the use of the Review Committee.

Part XX: Environment, by Valdene Buckley.

Political and Administrative Organization, by Lysa Joyal.

The Additional Zone, by Brent Rosnoski.

All of these studies are now the property of the Minister of Urban Affairs.

